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COMMITTEE ON MERCHANT MARINE AND FISHERIES
U.S. HOUSE OF REPRESENTATIVES

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HEARINGS

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ON

H. R. 225, 10458, 13463

COMPLEMENT OF
CREWS OF VESSELS



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COMPLEMENT OF CREWS OF VESSELS.

COMMITTEE ON MERCHANT MARINE AND FISHERIES,
HOUSE OF REPRESENTATIVES,
Thursday, January 23, 1908.

The committee met at 11 o'clock a. m. for a hearing on H. R. 225, 10458, and 13463, Hon. William S. Greene (chairman) presiding.

STATEMENT OF LUTHER B. DOW.

The CHAIRMAN, Mr. Dow, state your occupation and whom you represent.

Mr. Dow. I am general counsel of the American Association of Masters, Mates, and Pilots. I appear at this time representing the grand body.

I wish to say in the first place that as general counsel of this association for many years, and particularly this last year, we have had a great many complaints against masters and owners for running their vessels contrary to the certificate of inspection, because the rules and regulations distinctly say that the supervising board of inspectors or the local board of inspectors must designate on the certificate of inspection the number and class of licensed officers and crew that a vessel may carry, also the number of hours she may run with a single crew. We are more than satisfied with that, but we have had three different distinct cases, one of the tugboat *Erie*, one of the steamboat *Little Silver*, and one of the *George H. Allen, Jr.* In the *Little Silver* case complaint was made because she did not have a licensed mate with a proper certificate. In the case of the tugboat *Erie* the complaint was made because she ran eighteen hours out of twenty-four, when her certificate said not over thirteen, with a single crew. In the case of the *Allen*, she proceeded down Long Island Sound, where her certificate reads that she must have two pilots licensed to cover the entire route; but she goes down there with one whose license only covered half the route; her papers are taken away from her in Bridgeport, and she leaves Bridgeport with one pilot whose license only goes half the route. They bring these cases up; they are sent to the collectors of the port, and we are informed we can not do anything because the local inspectors had no authority to fill out the certificate of inspection.

The association that I represent wants this: That a statute be passed so that the local inspectors may have the same power that is now given to the board of supervising inspectors; that is, that the local inspectors must place therein and thereon the certificate of inspection, the number and class of licensed officers and crew that these vessels must have, and the number of hours that a single crew may work. It seems very hard, and we have had the experience of a number of disasters, of which it is no use for me to speak about or

to take up your time in speaking about, that we are fully assured were caused by an insufficient crew. That is all we want, that these vessels must have a sufficient crew. Somebody must be designated with authority to place that on the certificate. A vessel to-day can navigate with a man, one licensed man, where the certificate says two, and his license does not have to cover the entire route. So far as the inspection certificates are concerned they leave this point to the collector of the port, and it goes up to the law department and there we are blocked. That is all I wish to speak about. Now the association that I represent wishes to have provided on these vessels that navigate these dangerous waters a proper crew to navigate them. To-day nobody has got any authority outside of the board of supervising inspectors to so do. For many years the local inspectors thought they had that power, and they do to-day fill the certificates, but the Attorney-General has rendered a decision, and it is backed up from the solicitor of the department, that the board of supervising inspectors have no right to place in the regulation authority to have any local inspector to fill out that certificate.

I hope, gentlemen, you will do something to lodge the authority on somebody, and the local inspectors are the only proper persons to do that, and if you do not do that to help us out you will leave us in the same position, that a steam vessel can navigate in anyway she has a mind to. I do not think it is necessary for me to say any more and I thank you for the time.

Mr. EDWARD C. PLUMBER. Is this bill limited to steam vessels?

Mr. DOW. Yes, sir.

The CHAIRMAN. Who is next to be heard?

STATEMENT OF JOHN C. SILVER, OF BOSTON.

The CHAIRMAN. Whom do you represent?

Mr. SILVER. I am president of the National Association of Masters and Pilots. I wish to make a statement here for this association, that we have looked over and considered the three bills that are before you, and we have agreed upon a bill, which is a new bill; we have agreed upon this after considering three or four different bills, and this one that we present covers the entire subject so far as that is concerned. This is the new bill that we propose to introduce. It would seem to me that we have selected from the three bills all the materials we think it is necessary to introduce in the new one.

H. R. 225. A bill amending section 4463 of the Revised Statutes of the United States, as amended; it was introduced in the House of Representatives by Mr. Goulden, and reads:

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That section 4463 of the Revised Statutes of the United States now in force be amended so as to read:

"SEC. 4463. No vessel subject to the provisions of this title Revised Statutes, 4399-4500, or to the inspection laws of the United States shall be operated or navigated unless she shall have, in her service and on board a full complement of licensed officers and a full and well disciplined crew sufficient at all times to manage the vessel, including the proper number of watchmen: *Provided*, That, except in the case of steamers navigating rivers exclusively, at least seventy-five per centum of the deck crew, exclusive of licensed officers, shall be individually effective hands; that is, of a rating not less than able seamen; and no one shall be employed as an able seaman unless he shall be nineteen or more years of age and shall have served at least three years on deck at sea or on the Great Lakes: *And provided*, That such able seamen shall have sufficient

knowledge of the English language to understand any order given in English. But if any such vessel, on her voyage, is deprived of the services of any licensed officer, or of any of the crew, without the consent, fault, or collusion of the master, owner, or any person interested in the vessel, the deficiency may be temporarily supplied until others can be obtained; and the local inspectors shall fix and determine the number of licensed officers and crew to be carried by any vessel subject to this title by inserting the number of such officers and crew, so required, in the vessel's certificate of inspection at the time of issuing said certificate. But should the master or owner desiring to operate the vessel not more than twelve hours out of twenty-four in any one day, the local inspectors shall indorse on the certificate of inspection the number and class or kind of licensed officers and crew that are necessary for such reduced period of navigation: *Provided, however,* That the master, officers, owner, or agent of the said vessel may appeal from such determination by the local inspectors to the supervising inspector, and from him to the supervising inspector-general, and from him to the Secretary of Commerce and Labor, who shall have the power to revise, set aside, or affirm the said determination of the local inspectors."

We have learned, after several years of experience, that the Attorney-General has handed down a decision which distinctly says that no one has the right to issue or fill out the certificate of inspection except the supervising board of inspectors. Most of you gentlemen know that that board is in session only once annually. It would be impossible for them to fill out the certificates called for if that were the law and that was the requirement. The local boards have, ever since the organization of the service, filled out these certificates, which mentioned specially the complements of officers and crew necessary to equip and man a steam vessel, and different sizes of steam vessels, and the certificates of inspection distinctly state what the complement of the crew shall be. There is no standard adopted by the board, either through the supervising board or the local board, that adapts itself to all the different districts. It is a fact that district No. 2 construes the law much differently than district No. 1 or district No. 3, and therefore certificates of inspection might be filled out next year, after the expiration of this year, that would show an entire difference in the construction of the law or the rules.

The filling out of the certificates of inspection and the different requirements have become so vicious that the instructions to the local boards in one instance, which came directly under my observation, the local board said that "If this is a fact, that no one is permitted to fill out these certificates but the supervising inspectors at their annual session in Washington, which of course is impossible, and it has been so decided by the Attorney-General, what relief have we, and what can we do but to follow the usual custom? We have acted illegally ever since the inspection service was organized. That being the case, what can we do?" But they were instructed by their supervisor that they could only keep up the bluff until we obtained relief from Congress. This seems to me a most serious matter, that passengers and valuable freights and valuable ships are handled and managed by masters and pilots, who are alone responsible—they are penalized, often so far as to be tried for manslaughter in case of the loss of life. But, beginning with the first part of their official duty, there is nothing legally correct in that certificate of inspection which makes them a part of the complement of the crew of a vessel, to see that the ship and her people, under all conditions—to see that their passengers and cargo are delivered at a destined port.

Now we ask relief in this bill. We ask that the position of an officer may be standardized. We ask that the certificates may have some standard by which relief may be given and that it may be clearly

defined, and so that the licensed officer may be substantially relieved from being penalized for conditions over which he has no control, and we see no other way to safely deliver and manage steamboats under the law.

That is all I have to say, Mr. Chairman, upon the subject, but the bill we would like to have introduced in our own particular interest and in the interest of the traveling public, and in the interest of the boards who make the rules and govern us as licensed officers.

The CHAIRMAN. How long have you suffered under this difficulty?

Mr. SILVER. Ever since I have been a licensed officer—twenty-one years. It has always been that way. It is generally so considered by the man who under the law was said to be responsible for the rules. Most of the supervising inspectors thought that all that could be done was to wait for relief from Congress. Now the supervising inspector-general is here with us. I have known the gentleman for many years, in fact I was a deck hand when he was a licensed officer in the engine room, and shipmate with him also. This is of great importance to the licensed officer, particularly the deck officer in the delivery of a vessel to the destined port, and we ask that the rules shall be so established that they will standardize our position under the rules supervised by him.

Mr. HUMPHREYS. What are the requirements of the law at present in regard to the number of officers or men that you shall have?

Mr. SILVER. They vary with the district. There is no standard by which the districts are governed.

Mr. COX. Do you think the length of time specified in the bill is proof conclusive that a person is an efficient seaman, when your bill speaks of three years of service and 19 years of age—would you take that to be conclusive that he is competent?

Mr. SILVER. No, sir; not without examination. The seamen are examined as a rule.

Mr. COX. Who examines them?

Mr. SILVER. The master of the ship.

Mr. COX. Is that an oral examination?

Mr. SILVER. Not necessarily. We do not think a seaman is required in the wheelhouse.

Mr. GOULDEN. Section 4463 of the bill says:

No vessel subject to the provisions of this title R. S. 4399-4500, or to the inspection laws of the United States, shall be operated or navigated unless she shall have in her service and on board a full complement of licensed officers and a full and well-disciplined crew sufficient at all times to manage the vessel.

Who could decide that matter?

Mr. SILVER. The local boards. The bill makes provision for that.

Mr. GOULDEN. The local inspectors shall fix that.

Mr. SILVER. They always have done that, and we only ask that they may be legalized in their position in so doing.

Mr. GOULDEN. The proviso that "at least 75 per cent of the deck crew, exclusive of licensed officers, shall be individually effective hands;" who is going to determine that?

Mr. SILVER. We expect the master of the vessel will determine that.

Mr. GOULDEN. By an oral examination?

Mr. COX. Yes; that is no departure from the already established custom. The master usually asks the questions necessary to develop the efficiency in the men he employs.

Mr. GOULDEN. You have no complaint, then, against the present law on that subject, if the master does it now?

Mr. SILVER. Not in that particular instance.

Mr. GOULDEN. Should it not be inserted in the bill who shall do this and who shall be responsible to the local inspectors, or that the local inspectors shall participate in it?

Mr. SILVER. That I have not given much consideration, because I thought it would be a departure from regular custom. You have the United States shipping commissioner in every port, and usually he is charged with those affairs.

Mr. JOHN M. SWEENEY. Does this bill, so far as the 75 per cent requirement extends, cover passenger and freight both?

Mr. SILVER. It covers both entirely.

Mr. ALEXANDER. There is a provision here for an appeal from the action of the local boards, and under the terms of the bill, what will be the status of the case pending the appeal?

Mr. SILVER. The bill makes that provision. The appeal would be from the local board to the supervising inspectors' board, and from the supervising inspectors' board to the supervising inspector-general, and from him to the Secretary of the Department of Commerce and Labor.

Mr. ALEXANDER. In the meantime would this order go into effect or be suspended?

Mr. SILVER. We have not made direct provision for that.

Mr. ALEXANDER. Then his action might be hung up indefinitely.

Mr. SILVER. The law governs that. The same conditions exist now that have existed for many years, but the law, I believe, covers the length of time under which the appeal would be pending, or a request be made for an appeal.

Mr. ALEXANDER. In some section of statute?

Mr. SILVER. Yes, sir.

Mr. ALEXANDER. And in the meantime the order would go into effect?

Mr. SILVER. I should think so.

Mr. DOW. If a licensed officer is suspended he has thirty days in which to take an appeal to the supervising inspectors, and if the suspension is for over six months he can appeal to the supervising inspector-general, but the appeal in no case acts as a stay. He stands suspended until he gets the next decision. That is provided for in the law.

STATEMENT OF ANDREW FURUSETH.

The CHAIRMAN. Whom do you represent?

Mr. FURUSETH. I represent the International Seamen's Union of America, as chairman of its legislative committee, and in this particular instance I also speak for the American Federation of Labor, who have indorsed this amended bill that has been submitted to you this morning.

Mr. LITTLEFIELD. Your organization is federated with the American Federation of Labor?

Mr. FURUSETH. All of it, as far as the seamen are concerned. The matter of this amended bill as submitted to you this morning deals with three particular questions: The granting of power to the

local inspectors to determine the number of licensed officers and men to be employed on board of a steam vessel—

The CHAIRMAN. Do you mean to make that power absolute?

Mr. FURUSETH. Just as the bill says, subject to appeal. That is what it provides for. First, that it gives a standard, provides a standard in the men so employed in the deck department. It provides a standard as far as the officers are concerned, of all kinds—both in the engineers' department and in the deck department. There is a definite standard to go by, a standard for the deck, a standard for the seamen who are to use and handle the life-saving appliances, as contained in the proviso, to be 19 years of age or over, and to have had at least three years of service on deck at sea or on the Great Lakes.

Coming to the third proposition, it is to give to the local inspectors the right to determine whether a single or double crew, according to the time that the vessel is running. Those are the three subjects, as we understand them.

I want to say to you that the seamen, using the term in its generic sense, everybody on board the vessel from the master down, are not asking for anything new or strange in this matter, and I want to call your attention to the report to the British commission that reported in 1896. They recommended to the Parliament a definite standard to be adopted as to what should constitute an able seaman, and they went further and recommended a definite proposition as to how many should be on board a vessel, according to her size.

Now, I want to read first what they said would constitute an able seaman: "No one to be permitted to sign as an able seaman unless he be 19 or more years of age, and have at least three years' service at sea on deck." That was their recommendation. In 1906 the British Parliament amended the law in several particulars, and, among other amendments, I want to call your attention to the fact that while we here in this country only compel a vessel to carry a master and a mate, having a license, and made it unlawful to sail without them, the British law insists upon a second mate as well. This is the merchant shipping act, 1906 (6 Edw. 7, Ch., 48):

"SECTION 58. (1) For the purpose of reducing the period of service required as a qualification for the rating of A B, the period of three years before the mast shall be substituted for the period of four years before the mast, and two years of that employment shall be substituted for three years of that employment, and two or more years sea service shall be substituted for three or more sea service, in section 126 of the principal act."

Now, gentlemen, then they made a qualification of an able seaman, reading as follows: "A seaman shall not be entitled to the rating of A B, that is to say, of an able-bodied seaman, unless he has served at sea for three years before the mast, but the employment of fishermen in decked fishing vessels registered under the first part of this act shall only count as sea service up to the period of two years of that employment; and the rating of A B shall only be granted after at least one year's sea service in a trading vessel in addition to two or more years of sea service on board of decked fishing vessels so registered."

Mr. LITTLEFIELD. What are you quoting from?

Mr. FURUSETH. From the merchant shipping act of 1894.

Mr. LITTLEFIELD. A compilation?

Mr. FURUSETH. A compilation by order of Parliament or by a board which corresponds to the commissioner of navigation here. And the second part of section 58 of the act as amended last year reads as follows:

"Any superintendent or other officer before whom a seaman is engaged shall refuse the seaman as A B on the agreement with the crew unless the seaman gives such satisfactory proof as is required by section 126 of the principal act of his title to be so rated; and if any seaman, for the purpose of obtaining a rating of A B makes any false statement or false representation, he shall be liable on summary conviction in respect of each offense of a fine not exceeding £5."

So that you have not only steam vessels but all vessels under the British flag sailing out of Great Britain manned by men up to that rating.

Mr. LITTLEFIELD. How many seamen are there on the Atlantic coast that could qualify under the standard you propose in the amendment?

Mr. FURUSETH. There are sufficient of them unquestionably for the steam vessels. If it was to apply also to sailing vessels, there would be a difficulty for the time being, but there are enough seamen——

Mr. LITTLEFIELD. Are you sufficiently familiar with the subject so that you can answer in relation as to how many seamen are now employed on the steam fleet on the Atlantic coast?

Mr. FURUSETH. I could not tell you absolutely, but there should be something around 6,000.

Mr. LITTLEFIELD. Then are there 6,000 seamen who are capable of understanding the English language, above 19 years of age, who have been more than three years at sea on the Atlantic coast to-day?

Mr. FURUSETH. Yes, sir; without any hesitation.

Mr. LITTLEFIELD. You think there are?

Mr. FURUSETH. Yes, sir.

Mr. LITTLEFIELD. But if the same class of seamen are required in the sailing fleet, then you would not have enough to supply the demand?

Mr. FURUSETH. If the same class of men was required on the sailing fleet, and it was to be enforced upon all the sailing fleet and steamers at the same time, there is no doubt difficulties would arise.

Mr. LITTLEFIELD. How about the Pacific coast?

Mr. FURUSETH. On the Pacific coast there are about 7,000 men all told, and all of them are above the standard.

Mr. LITTLEFIELD. How about the Great Lakes?

Mr. FURUSETH. The Great Lakes have got about 8,000 men, and fully 5,000 of them are way above the standard.

Mr. LITTLEFIELD. But there are 3,000 of them who are below the standard.

Mr. FURUSETH. You see 75 per cent——

Mr. LITTLEFIELD. What would be the effect upon the Great Lakes if this law went into operation?

Mr. FURUSETH. Practically none.

Mr. LITTLEFIELD. There would be a demand for 8,000 men, and a supply of 5,000.

Mr. FURUSETH. That is, speaking now of the 75 per cent. The total demand for men on the Lakes altogether does not reach over

7,000. I was speaking about the number of men actually there, and the 7,000, if you please—

Mr. LITTLEFIELD. Let me see if I have it right. There is a demand now for 7,000 able seamen on the Lakes.

Mr. FURUSETH. No; 7,000 all told.

Mr. LITTLEFIELD. Officers and all?

Mr. FURUSETH. No; 7,000 deck hands or seamen.

Mr. LITTLEFIELD. But this bill of yours will require all of these men to be able seamen?

Mr. FURUSETH. No, 7 out of 10.

Mr. LITTLEFIELD. And the other three?

Mr. FURUSETH. The other three might be anybody.

Mr. LITTLEFIELD. Are there men enough who are good enough under these qualifications you have here, on the Great Lakes, to supply the existing demand?

Mr. FURUSETH. No doubt at all about that.

Mr. LITTLEFIELD. No doubt about that?

Mr. FURUSETH. No, sir.

Mr. LITTLEFIELD. What would be the effect of the adoption of this standard, as to the wages of the men employed, would it increase or decrease them?

Mr. FURUSETH. On the Pacific coast or on the Great Lakes the effect would be practically none. I do not think it would influence it at all.

Mr. LITTLEFIELD. How about the Atlantic coast?

Mr. FURUSETH. On the Atlantic coast I presume it probably might influence it; it might change the wages of men in the steam vessels \$5 or so.

Mr. LITTLEFIELD. What percentage of increase is that?

Mr. FURUSETH. They are now paying \$30 for that kind of men that this applies to, and that would be about 12 per cent increase.

Mr. LITTLEFIELD. It would be nearly 20 per cent.

Mr. FURUSETH. Thirty-five dollars instead of \$30.

Mr. LITTLEFIELD. That would be nearly 20 per cent, so that the adoption of this amendemnt you propose would increase the cost of operation, so far as the steam fleet on the Atlantic coast is concerned, at least 20 per cent.

Mr. FURUSETH. Oh, no, no.

Mr. LITTLEFIELD. It would so far as men are concerned.

Mr. FURUSETH. No, because this applies to the deck only.

Mr. LITTLEFIELD. Then to bring it down to deck hands, it would so far as able seamen are concerned.

Mr. FURUSETH. Yes, sir.

Mr. LITTLEFIELD. It would increase the cost of operation on the Atlantic coast so far as able seamen on the steam fleet are concerned nearly 20 per cent.

Mr. FURUSETH. Let me see how that will run. A vessel carrying 10 men now—

Mr. LITTLEFIELD. Just a moment. I said so far as the able seamen are concerned.

Mr. FURUSETH. So far as able seamen are concerned, yes, it would be an increase, if it was an increase of \$5 a month, for say 7 men it would be an increase of \$35 per month, if they carried 7.

Mr. LITTLEFIELD. You do not mean that.

Mr. FURUSETH. I mean the total increase of the vessel. If she carried 6 men it would be \$30 a month. If she carried 8 men it would be \$40 a month, and 10 men \$50 a month.

Mr. LITTLEFIELD. What would be the effect on the Great Lakes?

Mr. FURUSETH. I do not think it would be any. And I am satisfied it would not have any effect on the Pacific coast. It would not influence the situation on the Pacific coast at all because on the Pacific the men are above the standard.

Mr. LITTLEFIELD. Then you do not need the legislation on the Pacific coast?

Mr. FURUSETH. We need it because there is no telling in what condition the Pacific coast may be in a year from now or two years from now. The condition on the Pacific coast and on the Great Lakes to-day exists as it does because of the arrangement between the union and the vessel owners.

Mr. LITTLEFIELD. Have the figures you have given as the basis of the answers you have made in connection with my inquiries as to the Pacific and Atlantic coasts and the Great Lakes been obtained by you from the reports of the Commissioner of Navigation?

Mr. FURUSETH. On the Pacific coast they have been obtained from our own books, which record every man sailing along the coast, compared with that of the Commissioner of Navigation. On the Lakes it was obtained in the same way, from the books of the Lake Seamen's Union, which includes all of the men sailing there.

Mr. LITTLEFIELD. Where did you get your figures on the Atlantic coast?

Mr. FURUSETH. Generally from the Commissioner of Navigation's makeup of the amount of men the vessels carried.

Mr. HUMPHREY. What effect would this have on the boats on Puget Sound? We have quite a large mosquito fleet there. Would there be an efficient number of men there to operate those boats?

Mr. FURUSETH. Yes, sir; there would be a sufficient number of men, because as a matter of fact there always has been a surplus of men, generally speaking. Especially the men who are sailing the inland waters there have been sailing there for years.

Mr. HUMPHREY. If this bill was to go into effect are there a sufficient number of able seamen on Puget Sound to furnish 75 per cent of the crew?

Mr. FURUSETH. On Puget Sound, those sailing on the sound exclusively?

Mr. HUMPHREY. Yes.

Mr. FURUSETH. That I could not say; I could not be sure of that, but there will be no difficulty at all in getting them up there, absolutely none.

Mr. HUMPHREY. Where would you get them?

Mr. FURUSETH. Men who are sailing outside are just as capable of sailing inside, and you can get them right there.

Mr. HUMPHREY. Do you think it is necessary that this should apply to Puget Sound? Why not have Puget Sound included in the rivers? What more reason is there for having a higher efficiency on water like Puget Sound than on a river?

Mr. FURUSETH. Because of the disasters by wreck that have taken place on Puget Sound on several occasions. One particularly where there was a very large number of passengers drowned, distinctly

because of the inefficiency of the crew then engaged. And there have been wrecks since that time, too.

Mr. HUMPHREY. There has been one since then where there was a large number killed, and that was a collision. While that is true, is it not also true that we have had recently one or two wrecks on the Columbia River, also two wrecks within the last year on Alaska rivers and several lives lost?

Mr. FURUSETH. Of course vessels may be lost on rivers. But you are close to shore, and you can run the vessel ashore. And the same standard of efficiency that is desired or necessary on a water like Puget Sound or on the ocean or, say, in New York Bay, would not be necessary on a river, because you run the vessel into the bank and climb ashore.

Mr. HUMPHREY. I admit that that may be true, but at the same time is there a necessity of having the same kind of equipment and crew on inland waters like Puget Sound as there is on the ocean?

Mr. FURUSETH. In passenger-carrying vessels you make no distinction. And a man will drown just as quickly in going from Seattle to Victoria in one of those big passenger-carrying steamers that have sometimes thousands of passengers aboard; he has just as good chance of getting drowned there as in going from Puget Sound to San Francisco.

Mr. LITTLEFIELD. What you mean is it does not make much difference whether it is outside or inside as far as vessel navigation is concerned.

Mr. FURUSETH. That is it exactly.

Mr. HUMPHREY. They can sink in a river, too?

Mr. LITTLEFIELD. Certainly.

Mr. GOULDEN. What is the average width of Puget Sound?

Mr. FURUSETH. There are places where it is 15 miles and places again where it is only 4 miles.

Mr. HUMPHREY. But there are places where you can almost step ashore?

Mr. FURUSETH. I have been on Puget Sound a good deal and I never have seen any of those.

Mr. HUMPHREY. Have you ever been through Deception Pass?

Mr. FURUSETH. No; that is going farther up the sound, to Alaska. Now with reference to hours and authorizing the inspectors to deal with that question: You have had much said about the necessity for that, particularly with railroads. It is the same situation on vessels.

Mr. LITTLEFIELD. Do you think there is a parallel between the navigation of a vessel and the operation of a railroad?

Mr. FURUSETH. As far as keeping the men awake is concerned. If a man is eighteen hours on his feet, or eighteen hours at the wheel—if a man is eighteen hours at the wheel—he has got to give as close attention as any man can do anything, and if he has been eighteen hours at the wheel he is certainly unfit.

Mr. LITTLEFIELD. But do you want to be understood as making the statement that there is a parallel between the operation of a railroad and a vessel?

Mr. FURUSETH. I do not mean there is a complete parallel. On the very contrary, I think it is more—and the authorities that I could quote to show that a man, really, to attend to the steering of a

vessel properly—and this commission shows, and they had 147 experts of Great Britain, who were giving testimony, and the very pick of those who knew how to select and segregate and bring out testimony, and they held that it was unsafe for a man to be kept at the wheel more than two hours at a time.

Mr. LITTLEFIELD. What are the ordinary watches?

Mr. FURUSETH. Four hours. But there are usually two to steer, so that they are about two hours each.

Mr. LITTLEFIELD. The four-hour proposition is almost absolutely universal both in steam and sailing vessels?

Mr. FURUSETH. I am sorry to say—

Mr. LITTLEFIELD. Is that not the general rule?

Mr. FURUSETH. I am very sorry to say that it was, but it is not any more. There is a tendency in steamers, passenger and freight steamers, to have what they call day men, and to have only one man or two men on deck in the night. They do that for the purpose of reducing the crew, and it is a very dangerous and unjustifiable custom that is growing up. It ought to be corrected.

Mr. LITTLEFIELD. That can be controlled by putting in the hands of this board the power to regulate the number of the crew.

Mr. FURUSETH. Certainly; that is all that is necessary.

Mr. LITTLEFIELD. Then that phase of the bill takes care of itself without undertaking to specifically provide for it.

Mr. FURUSETH. Oh, no; there is no necessity for that. We are not asking for it in this particular bill.

Now, I want to call your attention to the German law. This is a copy of the German law. It was adopted in 1903, translated into the English language by R. von Heydebreck.

Mr. LITTLEFIELD. I would like to ask this question before you go to that. What proportion of these seamen—and you are very familiar with the whole question—what proportion of these seamen upon all the coasts and in connection with all the marines are American citizens, either native born or naturalized.

Mr. FURUSETH. Take it all in all, roughly speaking, I do not think at the present time that there are, at the very most, more than 10 per cent native American and naturalized.

Mr. LITTLEFIELD. Your 10 per cent is made up of American born and naturalized?

Mr. FURUSETH. Yes, sir.

Mr. LITTLEFIELD. So that including both of these classes your judgment would be, roughly speaking, that only about 10 per cent of the aggregate are in that class?

Mr. FURUSETH. Of men sailing before the mast.

Mr. GOULDEN. How do you account for that?

Mr. FURUSETH. The reason for that is this, that on account of the conditions under which the seamen have lived in the United States, the pains and penalties they were subjected to, and the better condition they could get on shore.

Mr. GOULDEN. Are not the conditions on shipboard more advantageous and beneficial to the American seamen than they are in the foreign craft? Is not the style of living better?

Mr. FURUSETH. No, no. The food of the English to-day is better.

The CHAIRMAN. Are not the quarters better?

Mr. FURUSETH. The quarters are not as good.

Mr. LITTLEFIELD. Does not the law require the vessels to carry more for their men in the American than in foreign vessels?

Mr. FURUSETH. No, not now.

Mr. LITTLEFIELD. When was the change made?

Mr. FURUSETH. The change in Germany was prior to 1898. We had the lowest scale of provisions then existing in the world—that is, in the European world. The poorest scale, and of course the influence of these things goes on for years afterwards.

Mr. LITTLEFIELD. Does not our law require something like 37 different articles of food in the provision scale?

Mr. FURUSETH. I do not know how many numbers there are, but I want to say, in 1898, on the 21st of December, the scale provision was adopted, and since that time there has not been hardly any scurvy in American vessels.

Mr. LITTLEFIELD. You do not know what the scale of provision is in detail?

Mr. FURUSETH. No.

Mr. LITTLEFIELD. What is the statutory scale of provisions in Great Britain?

Mr. FURUSETH. I can give it to you right here. Biscuits, salt beef, salt pork, preserved meat, fish, potatoes, dried potatoes, dried or compressed vegetables, split peas, green peas, beans, flour, rice, oatmeal, tea, coffee, sugar, milk (condensed), butter, marmalade or jam, sirup or molasses, suet, pickles, dried fruits, fine salt, mustard, pepper, curry powder, onions. That is a little better than ours, but we are not before you now complaining about our scale of provisions. I was describing the food conditions as they existed, not as they exist now with reference to the food question.

The CHAIRMAN. Is there anything further?

Mr. FURUSETH. I want to say with reference to the hours of labor that is suggested in this bill here, and a double crew—which is, in other words, dealing with hours of labor—I want to say that in Germany this law, adopted in 1903, provided for a watch and watch at sea.

Mr. SPIGHT. I suggest that this discussion is entirely foreign to the bill, and we are limited in time.

The CHAIRMAN. I think that we better keep pretty close to the bill.

Mr. FURUSETH. That is what I am doing—watch and watch at sea and not to exceed ten hours in port. That is the German law. I only want to quote that to show that there is nothing now being asked for here, nothing that is not granted already by other nations to their masters, officers, and seamen generally.

I am very much obliged, gentlemen, for your kindness.

STATEMENT OF JOHN M. SWEENEY.

The CHAIRMAN. Mr. Sweeney, whom do you represent?

Mr. SWEENEY. I represent the Marine Interest Association, covering the navigation of the rivers flowing into the Gulf of Mexico, as they are determined under the law, as well as stretching up into the Lakes.

Mr. Chairman and gentlemen, I wish to direct your attention first to the practical result and effect of either of these bills, so far as steamboats navigating the waters of the rivers are concerned. On the one

hand we have here a condition of the Government spending a large amount of money for the betterment of the waterways, particularly the Ohio and Mississippi rivers, while on the other hand it is working the decadence of the traffic on these rivers, and to some extent that is chargeable to the extra beaurocratic action on the part of the inspection service.

I understand and believe, without having the statistics before me, that the purpose of the bill known as the Ryan bill, which incorporates all the others, is to remove the objection which has grown up—I think in a case in the courts of Cincinnati, on account of the application of the rule of the board of supervising inspectors, to writing into the certificate by the local board of the inspectors, of the crew required on a certain boat to navigate it. Under section 4463, to which this is an amendment, that rule is applied only to passenger boats or to boats carrying passengers. Under this rule it would cover every towboat, and every boat navigating any of these waters or any other waters which came under the inspection at all, and for the small gasoline-driven boat, or internal-motor combustion-driven boat, if it is put under the operation of the inspection certificate as fully as may be, and as is probably contemplated, it would apply to everything of that kind.

Now, take the navigation of the Ohio River, for instance. At the headwaters at Pittsburg originates the coal. Tows go down that river towing coal that comes out of the Monongahela River and that region, and the same thing is true of the Great Kanawee and the tributaries to that stream. Frequently there has been a low-water season, the pools are full of coal, and a sudden rise of the river comes. It is unexpected. In order to get that immense amount of coal away very prompt action is necessary. Frequently the crews that belong to these different tows do not live in the immediate vicinity, and it is the practice to start a towboat at Pittsburg with less crew than she carries ordinarily, because maybe a pilot who was employed upon that boat lives 50 or 60 miles down the river, and he joins the boat when she gets there. I have known cases where a tug crew and others were sent by rail down the river to meet their boat.

Now as to the effect of this ruling, which applies to any boat operated or navigated under that clause, it would be impossible without a violation of this law to move a boat, even in the Chicago River, for instance, from one elevator to another, or a boat from one freight pile to another, unless all of the officers specified in these requirements were on board of the boat. I went down the Ohio River a few weeks ago on a boat that broke the shaft of her electric-light engine. The second engineer of that boat was sent ahead some 40 miles to have that shaft repaired and have it brought aboard the boat when she arrived there at that point, or a little while after. Under this law it would be a violation of the statute for that boat to have proceeded on her way.

Now when it is nearly, as it is now, the requirement of the Board of Supervising Inspectors, and I think Captain Dow is mistaken in saying that that board can not extend to the local inspectors the authority which it has, and so long as it has the requirement of that kind it is subject to that provision of the law—I am an engineer and not a lawyer, so if I make any legal statements here do not confine me to them—to that provision of the law which says that all the

requirements of the supervisor shall be necessary, if I understand the Cincinnati case, and Judge Anderson dismissed the proceedings against this boat for leaving with a short crew, because he said that requirement was unnecessary under those conditions.

And I understand that unless this provision is put into the act of Congress and that authority is taken away from the supervising inspectors there is no relief. It is drastic. It is too confining. A boat going up the Ohio River lands at a barge that has various piles of coal on her, carrying 150 bushels in each one. That boat comes up and lands beside her coal openings at one pile of coal, and when they have taken that on board they move ahead to the next pile of coal. Under this bill if one of the pilots of the boat or one of the crew of the boat happens to be out on the bank when they are undertaking to move the boat to the next pile of coal, it would be a violation of this statute. You may think that is overdrawn, but I know of cases of the application of the law by the local inspectors which are similar to that, and I do not believe that that kind of an application of it is approved of by the higher officers at all. I do not mean to say that, but I know of cases where the application of the law was just as foolish as that of the moving to the coal pile I am supposing here.

The inspection law generally was adopted in 1852. Prior to that time—and I want to say that I have been a builder of river boats since about 1873 or 1874, and I have built something over 250, and I have navigated them on almost all the rivers and waters. I have taken one river boat around into the Gulf of Mexico to Florida, and I have had some experience on navigation as well as in construction, and in the early times of the boating on the Ohio River and upon the western rivers the practice of making a life float of wood for use as a life preserver was inaugurated, and it was afterwards adopted in the law. At that time a great quantity of large plank was obtainable, poplar and pine, and it was utilized in these floats. We used plank because it would keep in shape better and was not liable to pull apart, so we used plank generally about 14 inches in width, 2 inches thick, and 4½ feet long. When this law was adopted it provided for a life float which should be of that dimensions or its equivalent. It was the practice to cut a hand-hole in the middle of these floats, where one might grab it.

Afterwards the law required a line to be belted around it, which was a very good provision. Not a great while ago, I do not know whether it was intentional or unintentional, the "equivalent" proposition was done away with and the law said that life floats should be 14 inches by 2 feet by 4½, and the equivalent was left out. And the local inspectors in one district went aboard of a boat that had been operating five years with these wooden life floats 12 inches wide, 2 inches thick, and 5 feet long, which was looked upon by us as an equivalent, and required that 3 inches should be cut off each end of the life float and a 2-inch piece nailed on the side of it. That is a fact, and it is just a sample instance of what you may expect under this law.

Mr. GOULDEN. You are talking about the Ryan bill?

Mr. SWEENEY. Yes; which, as I said, incorporates everything else. I am not going to say anything about this 5 per cent clause, because that is lake navigation, and I do not know how that practically works

out myself, and I have not the data. That, however, will be obtained for the committee.

But there is a provision in this bill, for instance, that says if a boat while on her passage in any way is deprived of any licensed officer that she may go on her way. But it does not provide in case where a deck hand falls overboard she may go on her way. Now, under a strict construction of the law, if you are navigating and one of the deck crew falls overboard you could not go on and operate that boat without a violation of this rule. And it works out in another way. Coming back to the towing proposition, or a passenger boat, perhaps carrying freight, the inspectors in filling out the requirements on the certificate would naturally provide for the maximum crew necessary to operate that boat under her maximum load. Now, frequently the tow boats leave Pittsburg and other places with a small tow, and the boat will leave with one of the crew short. That is rather a redundant case, but it has happened, and if the boat waited to get another man in its crew, and the water fell so she could not get over Glass House Riffle and other places below Pittsburg, and the water should go down, that boat could not go on her trip at all, and it might be six months before the coal would get down to Louisiana and the people that depend on us for their coal supply would naturally blame this law for that, and that is exactly how they would arrive at the result.

I happen to be consulting engineer at the present time for the Kansas and St. Louis Transportation Company, who are building or about to build some further boats for that trade. A few weeks ago one of their boats, which I was supposed to be looking after to some extent, was lying over at East St. Louis, and a sudden cold spell came on and a little ice began to run in the river, and the boat was lying in an exposed situation, and it was necessary to get steam on the boat—there was no other way of handling her—and tow her down the river to a safe harbor. Under this law to do that with that steamboat it would be necessary to put upon her for that short service the maximum number of crew required by the certificate of inspection.

Mr. Cox. I see that you base your entire objection to the Ryan bill upon the proposition that the bill makes it impracticable to operate upon the rivers.

Mr. SWEENEY. There are so many objections to the Ryan bill, but that is the principal one. I have not had time to study it. I only saw it yesterday.

Mr. Dow. I made certain statements in relation to the *Little Silver King*. I wish to place before your committee here a copy of a letter written by Charles Earl, solicitor.

The CHAIRMAN. There is no objection.

The letter referred to is as follows:

DEPARTMENT OF COMMERCE AND LABOR,
OFFICE OF THE SOLICITOR,
Washington, D. C., October 16, 1906.

The honorable the SECRETARY OF COMMERCE AND LABOR.

SIR: In compliance with your request for an opinion as to whether, in the case disclosed by the accompanying papers, a fine should be imposed, I have the honor to state as follows:

The Revised Statutes, under Title LII, relating to the regulation of steam vessels, contain numerous provisions regarding the inspection of such vessels, and require the issuance of a certificate of inspection in the following terms:

"When the inspection of a steam vessel is completed and the inspectors approve the vessel and her equipment throughout, they shall make and subscribe a certificate

to the collector or other chief officer of the customs of the district in which such inspection has been made, in accordance with the form and regulations prescribed by the board of supervising inspectors." (Sec. 4421, as amended June 11, 1906.)

"The inspectors shall state in every certificate of inspection granted to steamers carrying passengers, other than ferryboats, the number of passengers of each class that any such steamer has accommodation for, and can carry with prudence and safety." (Sec. 4464.)

Aside from the foregoing, there are no statutory provisions expressly stating what the certificate of inspection shall contain.

With regards to passenger steamers it is enacted:

"No steamer carrying passengers shall depart from any port unless she shall have in her service a full complement of licensed officers and full crew, sufficient at all times to manage the vessel, including the proper number of watchmen." (Sec. 4463.)

In the case now under consideration, the passenger steamer *Little Silver*, of the Patten Line of the New York and Long Branch Steamboat Company, having been duly inspected, a certificate of inspection was issued by the local inspectors, June 2, 1906, which required her to carry a licensed mate. On finding the vessel being navigated without a mate the owners of the vessel were fined \$500, which is the penalty fixed (R. S., sec. 4499) for a violation of section 4463, prohibiting the departure from port of steamers carrying passengers without a "full complement of licensed officers." The owners of the vessel have applied to the Department for a remission of the fine.

A precisely similar case was referred by the Secretary of this Department to the Attorney-General, who, in an opinion dated September 17, 1903, held:

"The local inspectors of hulls and boilers, who together constituted the board of local inspectors, two charges, among other things, with the duty of inspecting and approving 'the vessel and her equipment throughout' (secs. 4417-4421, Rev. Stat.) and authorized as a board to 'license and classify the masters, chief mates, engineers, and pilots of all steam vessels' (sec. 4438) are given no authority to determine what shall constitute a full complement of licensed officers and full crew, sufficient at all times to manage the vessel, including the proper number of watchmen, which section 4463 requires of every steamer carrying passengers before she shall leave port. In fact, the States do not specifically provide how or by whom that duty shall be performed; but the matter clearly comes within the province of the board of supervising inspectors, under section 4405, Revised Statutes, which, after directing them to meet annually in the city of Washington, D. C., provided:

"The board shall establish all necessary regulations required to carry out in the most effective manner the provisions of this title (title 52, Regulations of steam vessels), and such regulations, when approved by the Secretary of the Treasury, shall have the force of law."

"This was the view of the circuit court for the eastern district of Michigan, in *Flint v. Marine Ins. Co.* (71 Fed. Rep., 210-219), which said:

"The duty imposed by section 4463 of carrying 'a full crew, sufficient at all times to manage the vessel,' is a provision of title 52, for which, by section 4405, the supervising inspectors may establish regulations, and their regulations, when approved by the Secretary of the Treasury, 'have the force of law.'"

"But in prescribing a blank form to be filled out by the local inspectors the board of supervising inspectors can not be said to have themselves exercised their authority to determine the vessel's complement of officers and crew. What they have done is virtually to delegate their authority in that respect to the local inspectors. But the authority to make regulations conferred upon them by section 4405, involving as it does the exercise of judgment and discretion, can not, under a well-settled principle, be delegated."

Under this ruling the local inspectors have no authority to prescribe the number of officers a vessel shall have in her service, and the insertion of such a requirement in the certificate of inspection by the local inspectors is of no effect, since this is a matter which can be determined only in accordance with regulations established by the board of supervising inspectors and approved by the Secretary of Commerce and Labor, and as such regulations have never been formulated.

Since the ruling of the Attorney-General was made, section 4453, Revised Statutes, providing for examinations, in addition to the annual inspection, and for repairs pursuant thereto, has been amended by act of Congress approved March 3, 1905, by the addition of the following requirements, among others:

"And whenever any local inspector or supervising inspector ascertains to his satisfaction that any vessel, subject to the provisions of this title, has been or is being navigated or operated without complying with the terms of the vessel's certificate of inspection regarding the number and class of licensed officers and crew, the said local or supervising inspector shall order the owner or master of said vessel to correct

such unlawful conditions, and may require that the vessel at once cease navigating and be submitted to reinspection."

It is not perceived how this additional legislation can be regarded as conferring upon local inspectors any authority to prescribe in the certificate of inspection the complement of officers a vessel shall have, which was not already vested in them under the laws as they stood at the time of the Attorney-General's ruling. The amendatory act says nothing as to who may determine what shall constitute "a full complement of officers and crew," and necessarily leaves the matter precisely where it was before. The amendment undoubtedly recognizes that the certificate of inspection may, and should, under previously existing law, require a vessel to have a certain number of officers, but this recognition must be presumed to refer to a requirement of the certificate legally inserted, which, the Attorney-General holds, may only be done in accordance with regulations established by the board of supervising inspectors and approved by the Secretary. It is also to be observed that the act of March 3, 1905, in no manner changes the conditions under which the penalty for a violation of section 4463 may be imposed.

It subjects the master or owner to a penalty for refusal to comply with requirements on the part of the local inspectors to cease navigating, and to submit their vessels to reinspection; but it does not say that a fine shall be imposed if a vessel be navigated "without complying with the vessel's certificate of inspection regarding the number and class of licensed officers and crew." But in any case a penalty could not be incurred for failure to observe requirements imposed by persons other than those in whom the law vested the authority to make them.

In view of the foregoing considerations, I am of the opinion that the question in the present case is concluded by the ruling of the Attorney-General, referred to above, and that no provision of subsequent enactment in any way diminishes the force of that ruling.

Respectfully submitted.

CHARLES EARL, *Solicitor.*

(The hearing on these bills was here adjourned until February 6, 1908, at 10.30 a. m.)

COMMITTEE ON THE MERCHANT MARINE AND FISHERIES,
Thursday, February 6, 1908.

The committee this day met, Hon. William S. Greene in the chair.

The CHAIRMAN. The purpose of this meeting is to hear those gentlemen who are opposed to or want to amend the bills that have been presented by Mr. Goulden, of New York (H. R. 225 and 10458) and the bill introduced by Mr. Ryan (H. R. 13463).

Mr. GOULDEN. The bill H. R. 225 has been withdrawn by myself and the bill H. R. 14941 has been substituted in lieu thereof, thus leaving H. R. 10458 and 14941 with that of Mr. Ryan, H. R. 13463 before the committee.

The CHAIRMAN. Two weeks ago to-day we gave a hearing to those who appeared in favor of the bill and now we will give the opponents of the bill an opportunity to be heard.

Mr. DUFF. A committee representing the coastwise lines is present and if they can be given an opportunity now to present their objections, they will be glad to proceed.

The CHAIRMAN. Very well.

STATEMENT OF H. B. WALKER, PRESIDENT OLD DOMINION LINE,
NEW YORK, N. Y.

Mr. WALKER. We have put our views in writing in order to save the time of the committee.

Mr. COX. What bill do you address yourself to?

Mr. WALKER. The bill H. R. 14941 just referred to.

WASHINGTON, D. C., February 6, 1908.

Hon. WILLIAM S. GREENE,
Chairman Committee on Merchant Marine and Fisheries,
House of Representatives, Washington, D. C.

SIR: The signatories to this communication, respectfully addressed to you, representing the Atlantic Coastwise, Chesapeake Bay, and Gulf steamship lines, operating on regularly advertised schedules for the carriage of passengers and freight between the ports of Portland, Maine, Boston, Providence, Long Island Sound ports, New York, Philadelphia, Baltimore, Washington, Norfolk, Wilmington, Charleston, Savannah, Brunswick, Jacksonville, Tampa, Key West, Mobile, New Orleans, Galveston, Texas, Mexican and all West Indian ports, and as follows: Baltimore Steam Packet Company, Boston and Philadelphia Steamship Company, Chesapeake Line, Clyde Steamship Company, Joy Steamship Company, Maine Steamship Company, Merchants and Miners' Transportation Company, Metropolitan Steamship Company, New England Navigation Company, New York and Baltimore Transportation Company, New York and Porto Rico Steamship Company, Steamship Company, New York and Texas Steamship Company, Norfolk and Washington Steamboat Company, Red "D" Line, Southern Pacific Company, Southern Steamship Company, and United States Transportation Company, who beg to present to your committee for consideration:

First. In the opinion of all the lines here represented, the statutes now enacted, the various maritime laws, and the rules and regulations adopted by the Board of Supervising Inspectors of Steam Vessels, under the supervision of the Department of Commerce and Labor, fully protect the traveling public, the shippers and receivers of freight, and all of those engaged in the navigation of the vessel, as well as the owners of the steamship property.

The owning of ships and their operation is a combined industry, the importance of which is obvious. The shipowners are more solicitous of their vessel's safety with the passengers and cargo intrusted to its care, than are the owners of property or enterprises conducted on land. As a consequence, they have a well-organized staff of experts continually on the lookout for weakness in hulls and machinery and the proper manning and equipping of their vessels. The Government has provided additional supervision and inspection, and it is not fair to assume that any weakness would escape the vigilance of these officers. A still further guaranty of safety is the underwriters, who have their corps of surveyors to justify risks on vessels and cargo. These being truths, and the further fact that the loss of American merchant vessels has always been small in comparison to that of other nations, proves conclusively that the present laws governing their operations are exacting, and together with skillful management are ample. Consequently, we can not make our appeal too strong, or emphasize more forcibly than with the statement that additional legislation is at this time not necessary.

Second. The enactment into law of the provisions contained in the bills introduced by Mr. Goulden (H. R. 225, 10458, 14941) would work immeasurable hardship upon the steamship lines, and would result in the discontinuance and abandonment of some now in operation. More particularly does this apply to those operating in southern waters, and it would seriously affect the schedules of all others.

These bills contain a provision that at least 75 per cent of the deck crew, exclusive of licensed officers, shall be of a rating not less than able seamen, of 19 years of age and over, with a service of at least three years on deck at sea or on the Great Lakes. There are not at present enough men with such qualifications available to man the ships now in commission. With the diminishing number of sailing vessels from year to year it is not apparent, where steamship owners are to obtain 75 per cent of their seamen with these qualifications. Obviously, if they are to be recruited from the ordinary seamen which a steamer would be permitted to carry under such a law, which is limited to 25 per cent, this would be impossible. And if owners of American steamers are to rely upon the sailing vessels of foreign nations to train such men, they would be confronted with the other provision of the bill prohibiting the employment of seamen who are not familiar with the English language. Men with the qualifications called for can not be obtained especially at southern ports. There is nothing to prevent a seaman leaving his ship at these ports at any time, say just as the vessel is about to sail (which frequently occurs) except that for so doing he forfeits his accrued wages and effects, which may be of small consequence to him, and of no advantage to the owner, and the consequence would be that the steamer would be held up until a supply of such men could be obtained, with considerable annoyance, discomfort, and probable serious loss to passengers and perishable freight, and delay to other traffic, and the possible liability of the owner to suits for ensuing damages.

How would the owner, or master, of a steamer be in position to determine whether the representations of a seaman as to his having had the requisite number of years' sea service were true or not? If his statements turned out to be untrue, the owner would be liable for a violation of the law and not the seaman. The contention that the certificate of the Seamen's Union to this effect would be sufficient, is absurd. The effect of this would be that no man would be able to get such a certificate without becoming a member of the union, which would virtually mean that the laws of the United States would compel a seaman to join the union as a condition precedent to obtaining employment, with the result that the supply of seamen would be entirely under the control of the union, and the owners would be completely at their mercy in the matter of wages, men, and other conditions of service.

The custom of the steamship lines here represented is to permit the masters to select the deck crew of their respective vessels. These masters are, with few exceptions, men that have grown up in the service of the line; they have a thorough knowledge of the ship's requirements, as well as the trade in which it is engaged; he is best qualified to determine the competence of those necessary to properly man his ship, and while preference is always given to American citizens, they are not available. He is, therefore, of necessity compelled to recruit from foreign born, and while not adept in the English language they make up in all other essential qualifications.

Third. If your committee should deem it necessary to amend section 4463 of the Revised Statutes of the United States now in force, we respectfully suggest the following:

SEC. 4463. No vessel subject to the provisions of this title or to the inspection laws of the United States shall be operated or navigated unless she shall have in her serv-

ice and on board such complement of licensed officers and crew as may, in the judgment of the local inspectors who inspect the vessel, be necessary for her safe navigation and operation, and the local inspectors shall make in the certificate of inspection of the vessel an entry of such complement of officers and crew, subject to a right of appeal, under regulations to be made by the Secretary of Commerce and Labor, to the supervising inspector and from him to the Supervising Inspector-General: *Provided, however,* That if any such vessel is deprived of the services of any licensed officer or member of the crew without the consent, fault, or collusion of the master, owner, or any person interested in the vessel, the said vessel may proceed on her voyage if, in the judgment of the master, she is sufficiently manned for such voyage, but the master shall report in writing to the local inspectors the deficiency in her crew, and should a vessel so sail with a crew insufficient in the judgment of the local inspectors, the said vessel shall be subject to a fine of \$——.

We are, with great respect, your obedient servants,

T. B. WALKER.
W. H. PLEASANTS.
A. D. STEBBINS.
JNO. CALLAHAN.

Mr. GOULDEN. I would like to inquire whether your objection applies simply to the one bill, the last one introduced, H. R. 14941, and what has been the determination or conclusion by your people regarding the other bills introduced by Mr. Ryan and myself?

Mr. WALKER. Originally we addressed ourselves to the three bills, but we conclude the last section or the recommendation in our bill so as to accept Mr. Ryan's bill in part with some eliminations and additions. Mr. Ryan's bill, as I understand it, does not contain the section relating to the 75 per cent of able-bodied seamen.

Mr. GOULDEN. Neither does my bill, No. 10458. It says:

No vessel subject to the provisions of this title shall be operated or navigated unless she shall have in her service and on board such complement of licensed officers and crew as may, in the judgment of the local inspectors who inspect the vessel, be necessary for her safe navigation and operation, and the local inspectors shall make in the certificate of inspection of the vessel an entry of such complement of officers and crew.

That is the whole matter.

Mr. WALKER. We ask the right to proceed if we should be short, for instance, one oiler out of three; we would still have a crew sufficient to equip and navigate that vessel.

Mr. GOULDEN. That would be entirely within the province of the local inspector, I think.

Mr. WALKER. But suppose you can not get the inspector. Most of our steamers leave late in the evening. The Old Dominion steamers leave at 7 o'clock, and it is impossible to locate the inspector at that time. All we ask is that if in the judgment of the master there is a sufficient crew to properly navigate the vessel he shall proceed and report to the local inspector that he has done so. The master is a Government officer. He is responsible to the United States Government as well as to the owners. We do not ask that the owner be given that permission, but the master, who is the Government's representative aboard the vessel.

Mr. GOULDEN. As I understand your contention, it is that some amendment of section 4463 of the Revised Statutes is necessary, but not so stringent as that recommended by the bills of Mr. Ryan and myself.

Mr. WALKER. We had supposed that the present rules plus the statutes were ample, and rule 9 we always supposed covered the condition as far as passenger steamers go. There is absolutely no

question about the crews of these ships; the owners put on a larger crew than the Government requires.

Mr. MOUSER. The gentlemen who spoke in support of the bill two weeks ago said there would be no trouble in getting seamen under the provisions of the bill. You take the contrary view of that?

Mr. WALKER. Yes, sir; absolutely.

Mr. MOUSER. I would like to hear you further on that proposition.

Mr. WALKER. It is impossible to get the 75 per cent of the crew with the qualifications required. You say 19 years of age and three years of service. With coastwise passenger ships the needs of the service do not require that. It is what the man is able to do. All we require is to scrub down the deck lines, launch a boat, and row, if necessary, and then the fire drill. We all have our fire drills. We have a fire drill every day of sailing from New York, every fifth day to drill the men in the positions and in order for them to learn what is expected of them in case of disaster or trouble. In addition to that we have at Newport News boats launched in the water and rowing exercises, rowing around the ships.

Mr. COX. I do not understand whom you represent.

Mr. WALKER. All the coastwise lines, but I am speaking now of the Old Dominion Steamship Company, of which I am the president and general manager, and which runs from New York to Virginia ports.

Mr. MOUSER. Can you meet the requirements of the bill, as the matter stands?

Mr. WALKER. That would be pretty hard to say. As far as our lines are concerned, we would meet that in part. There are seasons and changes. When the yachts come out in the spring the men try to get the yacht work because it is easier, and we lose men, but in the winter the men come back. Now at the southern ports, suppose we should lose five or ten of our men, it would be impossible to get sailors at the southern ports. Take Norfolk; we are bringing down on every ship frequently sailors for foreign ships. Mr. Calhoun stated yesterday that his line carries them down from New York to go on foreign ships, because at Norfolk there are no sailors—there are practically none.

Mr. COX. What per cent of your men now are able to speak the English language and understand it?

Mr. LELAND. A very small per cent.

Mr. GOULDEN. Ten per cent can not speak the English language?

Mr. LELAND. We have a good many men who speak it fluently.

Mr. COX. What per cent of the men you now have can understand the English language?

Mr. WALKER. I do not know; I think they all understand the orders. We use Scandinavians and they are good sailors. As you know, they are brought up from boyhood as sailors.

Mr. COX. So far as the provisions of this bill are concerned, making it a condition precedent that they must understand the English language, would you raise any objection to the bill on that ground?

Mr. WALKER. Not so far as our own line is concerned; but I think we would raise an objection as far as the lines we represent, and that would be all the coastwise lines.

Mr. GOULDEN. The condition on the other lines, as I understand you, is not so good in the matter of the men understanding the English language as on your own line?

Mr. WALKER. We have 5 vessels, and it is much easier to man 5 vessels than 24.

Mr. ALEXANDER. Do you not regard it as necessary to the proper discipline of the crew that they should understand the English language?

Mr. WALKER. I think not. We take the junior officers, they are Scandinavians; they are not American-born; you can not get them for the service. They understand the Scandinavian language as far as that goes; they are Swedes or Norwegians and they can give the orders in both languages, and the men are natural sailors, and that is true with all the lines. The captains and officers in a number of cases are also foreigners, first and second officers and some masters.

Mr. ALEXANDER. Do you know of any disaster resulting from the inability of the crew to understand the language because they were foreigners?

Mr. WALKER. None whatever in the lines that we represent.

Mr. ALEXANDER. Any line engaged in the coastwise trade?

Mr. WALKER. I have heard of such an instance, the *Rio* case at San Francisco.

Mr. ALEXANDER. That was when the ship was sunk coming into the Golden Gate?

Mr. WALKER. Yes, sir.

Mr. FOULKROD. Do the men seek certain lines?

Mr. WALKER. In some cases, I think they do, because they are more frequently in port. A man who is married prefers to be on a short route. I think aside from that there is no preference.

The CHAIRMAN. Is there anyone here representing the lake interests who desires to be heard?

STATEMENT OF MR. CHARLES E. KRAMER, REPRESENTING THE LAKE MICHIGAN PASSENGER LINES.

Mr. KRAMER. I appear in behalf of the Lake Michigan passenger lines carrying a large number of passengers between points on Lake Michigan from Chicago and Milwaukee to places in Michigan as far as Mackinac Island and along the east shore of Michigan, representing some 30 steamers carrying passengers.

I desire to say that the objections that have been made by the gentleman who preceded me are about the same objections that we would make. We would encounter and do encounter the same difficulties in procuring crews, and now since the disappearance of the sailing vessels on the lakes, they having been superseded by the steam vessels, there is a shortage of what is known as able and experienced seamen, and we must recruit our deck crews from among the men that we find at the various ports. Chicago and Milwaukee furnish crews, and it is difficult to get crews anywhere else. The most objectionable feature of the bill is that requiring 75 per cent of the deck crew to be seamen. We realize that it would be practically impossible to get that many men at all times. We want to emphasize, however, the fact that the owners, managers, and masters of the steamers on the Lakes are just as anxious to ship able men as crews as Congress is to have us. We realize that the best man is the cheapest man, and we endeavor at all times to get men with as much

experience as possible, but we find ourselves in a position oftentimes where it is impossible to get them. It seems to us that up to this time and for the many, many years that ships have been operated and navigated under the flag, without any requirement from legislative halls for the kind of men or the number of men that we should operate, and that we have carried on this business, perhaps, with as much character and certainly with as much progress as has been made elsewhere, that we feel a good deal like leaving well enough alone; that too much regulation is worse than no regulation, and the thing that is overregulated is largely undermanaged.

The bill proposed by the coastwise people is substantially what we would ask for, and we encounter the same difficulties. Take, for instance, the evening sailing. A great many of our boats—in fact, a large number—leave late in the evening from Chicago, 7 and 8 o'clock, and if at the last moment some man should turn up so drunk that he would be unfit to go abroad or should not turn up at all, we would be in a position where we could not sail, and we might have several hundred passengers aboard who would be as anxious to go as we were and the local inspector could not be reached so that a report could be made and permission obtained to sail shorthanded.

We are ready and willing to live up to the requirements of the inspectors as to the number and positions of our crews and are very anxious to get that number and get the best men we can to fill the positions, but we think that to require us to report to the local inspector before we sail would be an onerous burden, not only upon us, but it would be a hardship upon those who had engaged passage with an idea of sailing at a certain hour and arriving at their destination at a certain time. Many of our steamers are scheduled to meet trains in Michigan in the morning and if they were held up for any length of time, of course the passengers would miss their connections.

Mr. GOULDEN. Would it not be possible for you to report to the local inspector three or four hours before the time of sailing?

Mr. KRAMER. Even then we would not know whether the men would fail to turn up, or would turn up in an unseaworthy condition.

Mr. GOULDEN. You require your men to be on hand in time for the boats to sail?

Mr. KRAMER. We require them there on time, but we have no means of taking them aboard if they do not turn up.

Mr. GOULDEN. You do not wait for them if they do not turn up in time for sailing?

Mr. KRAMER. Only if shorthanded. We would not sail without a sufficient crew; but we might be shorthanded, as has been stated, one oiler out of three or one watchman out of three, and things of that kind. The boat could be safely navigated and her boats safely handled and the apparatus safely handled by the crew on the ship. We would under no circumstances leave with an insufficient crew.

Mr. GOULDEN. Would you regard it as good discipline if you did not have the crew aboard three or four hours before sailing?

Mr. KRAMER. We endeavor to do that; but even with the greatest of care it sometimes happens.

Mr. GOULDEN. But as a rule, they are aboard?

Mr. KRAMER. Yes, sir; as a rule we try to do that.

Mr. GOULDEN. What percentage of able seamen do you think the crews should be composed of?

Mr. KRAMER. I do not know. I think we have 50 per cent now, but the trouble is with the requirements. Just as has been stated, it is almost impossible to learn with any degree of accuracy whether a man has the necessary experience. Those men do not hesitate, if they want a position, to say that they have had the necessary experience. We take all the burden of employing them and have no means of knowing whether what is said is true or not.

Mr. GOULDEN. You take their word?

Mr. KRAMER. We must take their word.

Mr. GOULDEN. You could make no inquiry outside?

Mr. KRAMER. We have no means of making inquiry.

Mr. GOULDEN. And you have no way of ascertaining the facts?

Mr. KRAMER. No, sir. The only possible way you could think of would be for a man to carry with him credentials of some kind, and I know of no association or officer who is designated for the purpose of making an examination and issuing such a certificate. We think the bill as proposed by the coastwise people is the bill that would be most satisfactory.

Mr. LITTLEFIELD. What bill is that you refer to?

Mr. GOULDEN. H. R. 10458, I think, is the bill they allude to.

Mr. MOUSER. The bill in this statement [exhibiting]?

Mr. KRAMER. Yes, sir.

Mr. LITTLEFIELD. The statement which has been submitted this morning is in substance the bill H. R. 10458, pending before the committee?

Mr. KRAMER. Yes, sir.

STATEMENT OF HON. HARVEY D. GOULDER, CLEVELAND, OHIO.

Mr. GOULDER. As I understand the progress of the hearings the freight interests represented primarily and principally by Mr. Livingston, president of the Lake Carriers' Association, have arranged for a further hearing later. Mr. Livingston, I learned by telephone, is ill in bed and may not be able to be here next Thursday. He had made arrangements to be here. Therefore, I speak to-day not for the Lake Carriers' Association and the freight feature of this matter, but rather as counsel for the associated passenger lines of the United States, which includes some of those spoken of by Mr. Walker, all those spoken of by Mr. Kramer, and others.

The approach to this thing is a very simple one. We have come through many years of experience to have very great confidence in the inspection service of the United States where the local inspectors and the supervisors and the board have been given opportunity. There have been deficiencies in their service and there have been deficiencies in the response of the vessel owners to the requirements. I think I may say that when we were endeavoring and did get through the rules for navigation on the Lakes, at that time the international marine rules were about to be put in force through the proclamation of the President, and the Attorney-General stated that they would apply to the Lakes, and one of the members of the chamber of commerce asked the question: "Now, if we adopt these rules for the Lakes, which you say have been approved by the pilots there, you will not have any collisions on the Lakes?" and our response was: "No. It is a misnomer to call them rules for preventing collisions, in a sense,

they are rules to present a guide and they give the fundamentals, and the man who complies with them is not going to be condemned for having a collision." Now, we want the same thing to obtain in the statutes. There ought to be a codification or revision of the statutes applying to steamboats, as so many of them go back to the origin of the steamboat-inspection service, more than fifty years ago, but we do not seem to be able to have that. We want that system of statutes to make some general rules and we want in behalf of the people for whom we speak to have all of the details left with the inspection department.

What aroused this particular legislation and question was that under section 4463, which provided that no passenger steamer should leave port without a full and sufficient crew, the local inspectors have been designated to determine what that crew should be, and the courts have determined—rightfully or wrongfully we need not discuss, I think wrongfully—that as the power which rested in Congress was delegated to the board of supervising inspectors they did not have the right to redelegate it to the board of local inspectors. Mr. Uhler is here and will correct me if I misstate the facts. There has been an effort on their part to undertake to determine this matter of crew, and the application of the statute was stated in sufficient terms for all purposes, as it had proved ever since section 4463 had been enacted that local inspectors should have that power put in their hands in such a way as would make it efficient and effective, and I remember having the honor of being present two years ago when we discussed that matter, and the proposition then was that section 4463, applying to passenger ships, should be so amended and that authority should be vested definitely in the local inspectors, and to that there was no objection.

Then there came these objectionable features which we find in most of the bills that have been submitted here—the objectionable feature of Congress undertaking to do by statute what the board of supervising inspectors, with their much more intimate connection with the matter, had represented to the Department of Commerce and Labor that they were unable to do, by reason of the great variety of the conditions and necessities and requirements of all kinds of vessels carrying passengers all over this country.

My first suggestion is, if a board of experts, thoroughly conversant with all these matters, found such difficulty, why should Congress undertake to arrange these specific details? The whole idea of this legislation is that those men charged with the duty by the Government and under the surveillance of the supervising inspector's office, the board of supervising inspectors, all experts, and then under the Department of Commerce and Labor, as a final court of resort, could, with every opportunity for going on board the ships, determine every such question, determine whether a boat needs 25 per cent or 50 per cent or 75 per cent or 100 per cent of able seamen, what are her necessities, what is a reasonable and proper requirement. If you eliminate these questions about deck crew and able seamen and eliminate the question of understanding the English language, because nobody can say, as far as I know, that orders are not understood, at least almost always, if not always—if you eliminate that from this bill you do not eliminate it by any manner of means from the situation, but you do leave that and all such details to a body of experts, begin-

ning properly with those men who can step on the ship and come in actual touch with the particular requirements of any ship, any boat anywhere, with the ascending right of appeal.

If you will pass this law, and I am not here to-day to say that it ought to apply—as General Uhler in his annual report thought it should and will probably advocate—I am not here to say yes or no, other than as far as passenger ships are concerned. I again remind you that I am speaking for the passenger boats. The passenger steamship lines of this country—I think I can speak for all of them that are established lines, that have regular routes—have the deepest interest to have their vessels well crewed. I have no doubt that would be the testimony of every Government official.

Mr. LITTLEFIELD. They are equally interested also in having all of their vessels properly navigated?

Mr. GOULDER. I am coming to that. These people have the greatest interest in that, and so far as the established passenger lines are concerned this particular legislation probably might not be necessary. There is a smaller percentage of predatory passenger navigation, and I can say for our association that we desire that you shall put this matter of crewing firmly in the control of the Government, so that the inspection department of the Government shall have the supervision, shall have the control, shall have the direction, giving to the owner simply, if he is displeased, if he thinks the action is arbitrary, the right of appeal as obtains in all cases in the inspection service.

Mr. HUMPHREY. I understand what you want is to place this power in the local inspectors and give the owner the right of appeal?

Mr. GOULDER. Yes, sir; and I do not hesitate to say that I would regard it as unwise for Congress to undertake to say in advance how many men of any class or kind should be employed on any ship, or to undertake to apply that by a general rule to all ships when we have our inspection service and all in the world that Congress has to do is to say, let the inspection service deal with this matter according to individual cases.

Mr. LITTLEFIELD. Is it not a fact that the board of supervising inspectors has not been able up to date to make a rule by reason of the local conditions?

Mr. GOULDER. Yes, sir.

Mr. LITTLEFIELD. And it would be just as impossible for Congress to make hard and fast rules to apply as it has been for this board to accomplish it in the past?

Mr. GOULDER. That is precisely my point, and instead of Congress telling the local inspectors what they should do in the specific details, I believe it is wiser for the Congress to say that the inspection department of the local inspectors, shall have the necessary authority which the board of supervising inspectors has been held incapable of delegating, and let the matter start there. Now, see the justice of it. The owner or the manager or the master or somebody in behalf of the ship has the opportunity to confer with reference to a specific ship, the occasion of her employment and everything about it, with Government officials, and I have no hesitancy in saying that in more than 90 per cent of the cases where that obtains there will be no difficulty between the Government inspectors and the management of the ship, but if there is a difference, the direction of the local inspectors would necessarily pre-

vail for the time being until the owner should have had his opportunity to carry it up just as we do in court.

Mr. LITTLEFIELD. Then should the bill provide that pending the determination of the general board the decision of the local inspectors should be considered as final?

Mr. GOULDER. There would be no objection to that, but I do not think it is necessary to put that in, and I would avoid any unnecessary words in the law. I think if the crew required the approval you spoke of, we have section 4463, that no passenger ship shall leave without an efficient crew, and then make that crew subject to the inspectors, I think you would accomplish what you suggest.

Mr. LITTLEFIELD. If you should omit that language, do you think you would obtain the result?

Mr. GOULDER. Yes, sir. The purpose and intent would be the same. The owner would have to abide by that approval of the crew by the local inspectors, I think as a matter of course, until a higher authority might modify or reverse their judgment in the matter.

Mr. SPIGHT. And that the appeal would not operate as a super-seedeas?

Mr. GOULDER. No, I think it ought not. Where passenger lines are willing—and I may say to you that the passenger lines are very willing—to be in the control and fully in the control of the inspection department, which we regard as beginning with the local inspectors and ending with the Department of Commerce and Labor, a judgment of the local inspectors in the first instance must control until it may be modified by an appeal elsewhere.

Mr. GOULDEN. You have read all three of the bills, I presume?

Mr. GOULDER. Yes, sir.

Mr. GOULDEN. What is your objection to the Ryan bill?

Mr. GOULDER. The Ryan bill undertakes to prescribe through Congress what the local inspectors shall do and undertakes to fix the hours.

Mr. GOULDEN. What objection have you specifically to House bill 10458, the second bill I introduced?

Mr. GOULDER. There is no objection to that, Mr. Goulden, on the part of the passenger steamship lines, so far as I know. The only question which arises is the one as to whether or not other than passenger vessels should come in. Section 4463 relates only to ships carrying passengers, and, as we fixed it in some legislation some two or three years ago, "passengers for hire." All these bills provide in the amendment of section 4463 that the amendment shall apply to all vessels subject to the provisions of Title 52, which would include other steamers than passenger ships.

Mr. GOULDEN. You admit, then, that some legislation is necessary?

Mr. GOULDER. Yes, sir, subject to this: I do not think the case was determined correctly, but assuming that it was, then I think the legislation is necessary and I think the legislation is highly desirable to give in a proper manner to the local inspectors this right of criticism, and if you please to call it so, control of the crew.

Mr. COX. Does not the bill No. 10458 give that control?

Mr. GOULDER. I think it does except, as I say, it goes to the other kind of ships about which you are to have a further hearing.

Mr. COX. Confining it exclusively to passenger ships, does this bill give control where you think it ought to?

Mr. GOULDER. Yes, sir; with this question, whether there should be specifically provided in the bill what occurs in one of Mr. Goulden's bills, the right of appeal; perhaps that should be affirmatively added to Mr. Goulden's bill.

Mr. COX. With that addition?

Mr. GOULDER. Yes, sir. The passenger people would accept it, and so that is a very desirable thing for this reason. As I have said, more than 90 per cent of the passenger people on their own account, for their own reasons, for selfish purposes, if you please to call it so, want to have efficient crews, and they are just as anxious as the inspection department or Congress or anybody else that that standard should be compellable against anybody who wants to dodge and does not want to do it. We are ready to have our vessels crewed properly.

Mr. GOULDEN. There are, in your judgment, some dodgers, then?

Mr. GOULDER. Yes, sir. You have the case of the *Slocum*, and we have had some other cases of that kind, of men who undertake to get around the requirements, undertake to deceive the inspectors, and all that sort of thing. We have come up against that condition of thing. You found it in New York, where your local inspectors were advised by the district attorney that they had not any power to stop that boat. They could go through and make an advisory examination of the boat and say what the crew should consist of, but they lacked the authority to have their instructions carried out. This bill would give that authority. The passengers and the people all want to have this authority conferred on the local inspectors beyond the peradventure of a doubt.

Mr. LITTLEFIELD. They are perfectly willing to have the regulations, the safety of the public and the safety of their property, improved by the law?

Mr. GOULDER. Absolutely, and I wish I could speak better and more clearly and more strongly than I am able to against the idea of Congress undertaking to regulate the details when you have now good machinery for working it day by day, case by case, incident by incident, where the owner has an opportunity at any time to be consulted, and has a right subsequently to appeal through the supervising inspector to the board and to the Department, if necessary, so that if there is any wrong about the thing as applies to the ship A B or X Y or any other ship it can be quickly corrected and no injustice done to anybody.

I think every gentleman here, especially the larger part—most of us are lawyers—every one of us can understand the hardship there would be where there is no elasticity; where the rule of equity does not come in to mollify and ameliorate the hardships of law, or there is no way in the world to modify the conditions with reference to any particular ship except by coming to Congress and having a new law passed. I think we can all understand that hardship, and therefore I say, without impugning the motives of the Seamen's Union, and without impugning the motives of anybody who has prompted or sought to prompt this character of specific legislation, I say we can safely leave that to the machinery of the Government already provided for, only you will, as we not only agree but request you to do, put that definitely and clearly in the hands of those men whom I have said are in touch and can deal with it, where the owner can

be consulted, and where the power of the Government is just as firm and positive as it would be by statute of Congress, and let this question of what the percentage of crews should be, what class or kind, let that be fixed there on consultation with the owner of the ship, the Government's agent controlling as arbitrarily as he may find it necessary. That is my judgment.

Mr. COX. It would be your judgment that such a law would be more conducive to the preservation of human life?

Mr. GOULDER. I think without any shadow of a doubt that it would be better.

I want to say this to you in regard to the matter of getting local inspectors to give service before the sailing of a ship. It is extremely difficult in any business district for the local inspectors to do their work and be ready for these additional things. It is just exactly like the business of a lawyer or the business of a real estate man or anyone else. There is the apex, the breaking point of that business. If I could regulate my business so I could have my cases heard upon regular days and hold consultations upon regular days and hours, I would lead an easy life. They come together just like the business of these inspectors. They get a whole lot of these inspections in a bunch and I have known them to work eighteen hours a day in trying to accommodate the rush. What is the use of burdening them with other clerical duties besides?

Mr. LITTLEFIELD. In addition to that there are lots of places, and the local inspectors can not be at all those places at the same time?

Mr. GOULDER. Yes, sir.

Mr. LITTLEFIELD. In your own town you have a board all the time?

Mr. GOULDER. Yes, sir; but our inspectors cover a number of ports and it is frequently the case that they are absent from Cleveland.

Mr. LITTLEFIELD. It is physically impossible for them to be at all times at all these various places?

Mr. GOULDER. They can not be there. Even at the headquarters in Cleveland the men can not be there. They have to go to these other places and are absent all day at times.

Mr. CLARK. I understood you some time ago to differentiate between the regular passenger business and what you called the predatory passenger business?

Mr. GOULDER. Yes, sir.

Mr. CLARK. I think the committee would like to have you enlarge a little on what you mean by predatory?

Mr. GOULDER. There are unfortunately in the steamboat business as in every other business some men who avoid as far as they can the regulations. It costs them money. Men who will come in and dodge things as far as they can, come in with a claptrap steamboat and run her occasionally, run her on excursions, and things of that kind, and pick up a crew who have no opportunity for fire drill or boat drill or even to know the stations and that sort of thing. It was determined in New York after the *Slocum* disaster that whatever authority the local inspectors had they could not stop a boat that they knew was undermanned, they did not have the authority, and that they would have to go to the district attorney and have a suit brought against that ship. If you pass this law, as we suggest, it is my judgment, that the board of local inspectors could use this force at their com-

mand to stop a boat right then and there and to say: "You shall not go unless you have a crew on board your ship which meets the approval of the board of inspectors."

Mr. CLARK. Do you mean to say that under the statutes of the United States now that the inspectors would not have the right to stop any vessel not properly manned as you say the *Slocum* was?

Mr. GOULDER. The district attorney took that position in New York.

Mr. LITTLEFIELD. Where is the language in your bill which provides for the inspectors to arbitrarily take charge of a vessel?

Mr. GOULDER. That it shall not leave without a crew having the approval of the board of inspectors.

Mr. LITTLEFIELD. Very true, but that does not invest the board of inspectors with the power to physically stop her?

Mr. GOULDER. Yes, sir; the legal power, so that would be the physical power.

Mr. CLARK. They have not that power now under the law?

Mr. GOULDER. I will not say that is my opinion, because I never considered that phase, but I say the United States District Attorney, who probably gave a correct opinion, was of that opinion.

Mr. SPIGHT. Are we to understand that this bill, H. R. 10458, would meet with your approval with an additional section providing for an appeal, and also that the appeal shall stay the judgment of the inspectors until reversed by the appellate power?

Mr. GOULDER. If that were necessary, I would say put it in. It does not seem necessary.

Mr. SPIGHT. Do you think it would be better to add an additional section?

Mr. GOULDER. I think it would be well enough to do it, so there would be no shadow of a doubt.

Mr. SPIGHT. Is this bill satisfactory to you as far as it goes?

Mr. GOULDER. Yes, sir; except as I have explained, it extends to other ships than passenger ships of which I am not able to speak.

Mr. SPIGHT. It is satisfactory to you?

Mr. GOULDER. Yes, sir.

Mr. MAYNARD. The inspection feature is satisfactory?

Mr. GOULDER. Yes, sir. My point is simply this, let the local inspectors have this authority and leave with them the discretion of these various details.

Mr. LITTLEFIELD. Bearing upon this question as to whether the inspector per se of his own motion and force has the legal right to interfere with the sailing of a vessel, in section 4453 there is the following:

Any vessel subject to the provisions of this title operating or navigating or attempting to operate or navigate after the revocation of her certificate, shall, upon application by the inspector to any district court of the United States having jurisdiction, and by proper order or action of said court in the premises, be seized summarily by way of libel and held without privilege of release by bail or bond until a proper certificate of inspection shall have been issued to said vessel.

Mr. GOULDER. That is the only sanction you have for the law.

Mr. LITTLEFIELD. When the statute provides that the process of the court must be used for summary seizing do you hold in addition to that that the inspector can summarily seize the vessel?

Mr. GOULDER. No; not that he may summarily seize the vessel, but he can forbid her going, he can forfeit the license of the officers.

Mr. LITTLEFIELD. That is my proposition, has he the authority to take physical possession without a decree of the court? I am not familiar with the statute, but this provision provides for a decree of the court.

Mr. GOULDER. I do not want to say offhand that my opinion is that the inspector would have the right of physical seizure, although at first-blush opinion I would say yes. They can accomplish the same thing, their authority is not open to question and they could successfully suspend the licenses of all the officers.

Mr. LITTLEFIELD. They can make it impossible for a vessel to sail?

Mr. GOULDER. Yes, sir; they could take away the officers' licenses.

Mr. LITTLEFIELD. But the officers under those circumstances unless they have the physical power of seizure without the decree of the court could continue by paying the penalty?

Mr. GOULDER. By paying the penalties on the boat and on the officers, but under those circumstances the licenses of the officers could never be restored. Another thing, there is a penalty on the owner, and if a ship should leave under those circumstances and any accident should occur, any limitation of liability on the part of the owners certainly would not apply. There are penalties, it seems to me, that are severe enough to furnish the sanction to the law.

Mr. LITTLEFIELD. But they do not go to the question as to whether they would have the authority to take physical charge of the vessels?

Mr. GOULDER. I would not want to give an offhand opinion, but if I were consulted I would be inclined to think that the local inspectors had the right to take physical possession of the vessel and would advise them to do so and then let it be tried out in the courts.

I simply want to emphasize that the passenger men I am representing here want to do the best they can and they want the necessary elasticity and they want the elasticity put with the inspection department.

The CHAIRMAN. Is Mr. Livingston present?

Mr. GOULDER. Mr. Livingston had made all arrangements to be here Thursday, but he is sick, and his son informs me that it is doubtful whether he can be here next Thursday, but I will let you know to-day or to-morrow whether he can be here Thursday. I think he should be heard, because he will speak for the freight tonnage, the Lake Carriers' Association.

Mr. LITTLEFIELD. The largest amount on the lakes is the freight tonnage?

Mr. GOULDER. Yes, sir; very much the greatest.

Mr. LITTLEFIELD. That is, passenger tonnage is almost insignificant as compared to the freight tonnage?

Mr. GOULDER. Yes, sir; by comparison.

Mr. GOULDER. Mr. Chairman, Mr. Ryan has asked for a hearing two weeks from to-day, at which time he will have the Buffalo interests here.

Now, Mr. Chairman, as the introducer of the bills under discussion to-day, I want to make a statement. The cause of the introduction of these bills is due to the fact of the terrible disaster, showing ignorance and insufficiency of the crew and officers of the *General Slocum*, which occurred in my district on the East River, New York Harbor. I sat upon the coroner's jury for six days. That has been the direct cause of these bills, and while I remain in Congress I

shall continue introducing bills that will remove the evils that ought to have been removed long ago. Had you sat upon that jury and listened to the evidence, showing that more than a thousand human beings were sent to their graves through the criminal negligence of the owners and of the officers of that vessel, you would feel as I do about this matter. Now, that vessel and some others in the harbor of New York were in the predatory class spoken of by my friend, Mr. Goulder. There have been other accidents of almost equal character occurring in other sections of the country, and that is why I am so deeply interested in this matter. I have no further interest than to do that which will make human life safer; that the public may have the assurance that it is safe to travel upon steamers everywhere in this country. I want to say that the great body of vessels going out of my own port, New York, are, I think, well manned, honestly and efficiently so, and that these bills were not intended to apply to them, because they comply with the legal and decent requirements of law.

Mr. LITTLEFIELD. And this bill would probably not change a thing?

Mr. GOULDEN. Yes, sir. I am familiar with the ships that come into the harbor of New York. I go aboard them and know what they are; but there was a serious condition of affairs previous to this, which culminated in the disaster to the *Slocum*. I make this statement for the information of my colleagues on the committee. Mr. Chairman, you know what happened when the fire was discovered on the *Slocum*? The crew jumped overboard and swam ashore. It was composed of mere roustabouts and they had had no fire drill that season. I never knew of a crew so inefficient and indifferent. All the life preservers were old and rotten—you could put your finger through them. The *Slocum* did not stand alone in that category. There has been a wonderful improvement. I am excluding coastwise steamers, because I went aboard those vessels and tried to do the same thing but failed. The passenger steamers in the predatory class had a very poor management and the life preservers were certainly not intended to save lives.

STATEMENT OF HON. EUGENE T. CHAMBERLAIN, COMMISSIONER OF NAVIGATION.

Mr. CHAMBERLAIN. I wish to take a moment's time to impress upon the committee, if I may, the importance of legislation at this session upon one subject. There is no provision of law whatever at present in regard to the number of the crew required on a vessel. We have an elaborate system of requirement as to the fire fighting apparatus, life-saving apparatus, and all that sort of thing, but absolutely no provision of law in regard to the number of men who are to work this apparatus. I think the statement is sufficient in itself to show the necessity of the legislation.

I have before me the bill introduced by Mr. Goulden, H. R. 10458, that would cover that situation in part. If to that bill, H. R. 10458, we added the proviso at the end of the bill H. R. 14941, for an appeal from the decision of the local inspector first to the supervising inspector and then to the inspector-general and then to the Department of Commerce and Labor, if necessary, the situation would be covered so far as that phase of the matter is concerned. As a general principle of legislation, I suppose the committee will take the position

that subordinate officers should not be intrusted with absolute power in a matter of that kind. There should be some head power, not that the subordinates in nine hundred and ninety-nine cases out of a thousand would not take the proper action.

Mr. WILSON. Do I understand that you would add to the bill 10458, that part of the bill 14941, beginning with "*Provided, however?*"

Mr. CHAMBERLAIN. Yes, sir; beginning at line 23. One reason why I suggest so simple a proposition is this, we only hope that something will actually be done at this session of Congress. This situation has existed for some years and it is about time it was stopped. While it is the practice of the inspectors at the present time, as I understand it, to put in the certificate of inspection the number of crew in the different capacities, still it can not be enforced if it was ever tested. As a matter of fact, in most cases the owners of the vessels conform to it, but there is no compulsion about it.

Mr. GOULDEN. I should have no objection whatever to doing that.

Mr. CHAMBERLAIN. I have just had an opportunity to read the bill suggested by Mr. Walker, representing various steamship lines. It seems to me that one provision in that bill is particularly desirable when you consider the difficulty at times that will arise when a vessel must start if they be deficient in half of the crew. It is practically found on page 2 of Mr. Goulden's bill No. 14941, a large part of it, beginning in line 8, "but if any such vessel," etc. This is a little more effective, but the idea is the same, and it would cover the entire situation. I am reading from the draft that was handed in by the first gentleman who spoke, Mr. Walker:

Provided, however, That if any such vessel is deprived of the services of any licensed officer or member of the crew, without the consent, fault, or collusion of the master, owner, or any person interested in the vessel, the said vessel may proceed on her voyage, if in the judgment of the master, she is sufficiently manned for such voyage; but the master shall report in writing to the local inspectors the deficiency in her crew, and should a vessel so sail with a crew insufficient in the judgment of the local inspectors the said vessel shall be subject to a fine of \$—.

I would like to suggest one or two points for the consideration of the committee in regard to this amendment. As it stands, and it was doubtless an oversight, there is no penalty provided if the master fails to make his report. Obviously there should be a fine. That, I take it, is an oversight, and the time should also be stated in which the report is required to be made.

Mr. COX. How much time?

Mr. CHAMBERLAIN. Five or ten or fifteen days.

Mr. MAYNARD. Twenty-four hours?

Mr. CHAMBERLAIN. If an Old Dominion steamer starts from Norfolk, and is going to New York, they might make a report by wireless telegraphy within that time, but not otherwise. There should be some reasonable limit.

Mr. MAYNARD. I should say that twenty-four hours would be a reasonable time.

Mr. CHAMBERLAIN. I am merely suggesting that a time limit should be fixed. Of course the committee will fix that in a rational way to meet the different situations that will arise.

Furthermore, in this amendment a penalty is imposed on the vessel. It seems to me that inasmuch as the responsibility for going with a short crew is assumed by the master that the penalty should

be on the master. The master takes all the responsibility if he goes with a short crew, and if the crew is too short then the master should stand the penalty. I was going to suggest that you add to what I have just read at the end of the typewritten bill:

If a master shall fail to render a report in writing of the deficiency in crew, he shall be liable to a penalty of \$

The CHAIRMAN. Within a certain time?

Mr. CHAMBERLAIN. Yes, sir.

Mr. MAYNARD. It has been suggested to me that twelve hours after the arrival at the first port would be proper.

Mr. UHLER. As soon as he finds that the crew is short, it is not going to take him five minutes to make the report. All he has to do is to make the report and put it in an envelope.

Mr. CHAMBERLAIN. He may not discover it until after he starts. I think it would work better, simply as a practical matter, if the report was made after the vessel had reached the dock rather than before.

Mr. MAYNARD. The first port they touch?

Mr. CHAMBERLAIN. Yes, sir.

Mr. NICKERSON. Every ship that sails goes shorthanded, so why report when a sailor is short? If you carry 50 sailors and you are one short, why report it? You put in one of the bills here that he shall be an able seaman, have been three years at sea, and nineteen years of age, but you have neglected to put in the other qualification of getting drunk.

Mr. GOULDER. Suppose they are 10 short?

Mr. NICKERSON. They carry 10 more than required all the time.

Mr. CHAMBERLAIN. A bill something in the shape I have tried to outline rather hurriedly seems to me ought to meet practically the unanimous approval of all the various interests concerned. The importance of action on this subject at this session can not be overestimated. Something of this kind, it seems to me, is as important as anything that is before the Congress of the United States, certainly so far as shipping matters are concerned.

There are two other matters in Mr. Goulden's bill, H. R. 14941, of which I wish to speak just half a minute. First, as to the requirement that three-fourths of the crew shall be able seamen, 19 years of age, three years on deck, and so forth. That is an adaptation of a recent British law in part. It is not exactly the same as the British law it is based on, I take it. The British law has to deal with a system that is of one kind, a salt-water system. I think it would be very difficult to apply that to the vessels of the United States when you consider that means the river vessels, the vessels on the Sound and on the Great Lakes. I think it would be quite difficult to apply a fixed regulation in this country.

Mr. GOULDEN. The river interests are excluded?

Mr. CHAMBERLAIN. Yes, sir; I beg your pardon. It would be very difficult to apply a uniform requirement to the various kinds of navigation. I venture to suggest that the committee give some time to the consideration of that matter and I very much trust that the consideration of that matter will not interfere with the passage of the simple bill to which I have referred. In addition, the British people have a complete system of registration of seamen, and they have had

for a great many years. The register of seamen in England is an important officer, with a large force of men, and they have a history of the careers of the British seamen and can readily determine their qualifications; it is an automatic process. In this country we have absolutely nothing of that kind and there is a great deal of administrative detail in that matter that I think should at least be considered. It may be that other matters will weigh more with the committee than this, but I wanted it brought before the committee before action was taken.

Second, as to a knowledge of the English language. Of course that was inserted more particularly with a view to keeping the Chinese crews on the Pacific Ocean. I want to call your attention to the fact that the provision in this bill is widely different from the British law, which was recently enacted. I have a copy of the British law right before me:

After the thirty-first day of December, nineteen hundred and seven, the superintendent or other officer, before whom a seaman is engaged to be entered on board any British ship at any port in the British Islands, or on the continent of Europe between the River Erbe and Brest, inclusive, shall not allow a seaman to sign the agreement if in his opinion the seaman does not possess a sufficient knowledge of the English language to understand the necessary orders that may be given to him in the course of the performance of his duties.

Of course that is a much more exact phrasing of the idea than I think there is in this bill. The bill as it stands requires a knowledge of conversational English, and of course the British law requires so much English as to do the sailor work. That is rather better. The British law is applied, as you will notice, only to seamen who are shipped in ports of Great Britain or in ports of the continent of Europe from the River Erbe to Brest. It applies only in that limited territory. Outside of that territory they are at liberty to take on any number of crews they choose; at least, so far as that is concerned, there are no qualifications. There are no more Chinamen in England than in the United States, and there are no Chinese sailors over there, practically. The law while seemingly excluding Chinese sailors from British ships does not have that effect at all. The question whether Chinese should be excluded from the crews of American vessels is too large a question to take up at 12 o'clock in the day, but I simply want to call your attention to the fact that the effect would be widely different.

(Thereupon the committee adjourned.)

COMMITTEE ON MERCHANT MARINE AND FISHERIES,
HOUSE OF REPRESENTATIVES,
Thursday, February 20, 1908.

The committee met at 10.30 o'clock, Hon. William S. Greene (chairman) in the chair.

The CHAIRMAN. Gentlemen, there are a large number of you here and I would be glad if you can agree on the time the different people are to occupy. We are not to be limited to 12 o'clock, but will go right on with the hearing as long as anybody wishes to be heard, if the friends of the bill and those opposed to it can agree upon the time.

Mr. GOULDEN. Mr. Chairman, I suggest that those who are opposed to the bill last introduced by me, House bill 16987, be heard

first and those in favor of it be heard later. I want to say that I have introduced this bill after the last hearing and tried to meet the various interests, which seem to be conflicting, and for the purpose of giving wider scope to this discussion, as well as that we might consider all the various bills, but this bill is now before the committee for consideration.

The CHAIRMAN. We will consider House bill 16987.

Mr. CALDER. Would it not be well to limit the time of those opposed to the measure?

Mr. WILSON. How much time have you?

Mr. ALEXANDER. I move that the time be divided between now and 12 o'clock, whatever it is.

The CHAIRMAN. That is an hour and eighteen minutes; forty minutes to a side, say. Those opposed to the bill we will hear now. Captain Nixon, did you desire to speak in opposition to the bill?

STATEMENT OF MR. LEWIS NIXON, REPRESENTING THE NATIONAL BOARD OF STEAM NAVIGATION.

Mr. NIXON. Here is a list of our men who are with us.

Mr. GOULDEN. Whom do you represent?

Mr. NIXON. I represent the National Board of Steam Navigation. There are several of us present. We have not got much to say about this, but we understand that some change in the law is going to be made. We would like to suggest that this last bill be modified, as we think that the steamboat interests are pretty well handicapped at present, and much more legislation will tend to take the management of the lines out of the hands of the people that own them and put it into the hands of somebody else, and we should like to have it designate the passenger steamers first—that is to say, put the word "passenger" after the word "no."

The CHAIRMAN. In the fifth line on the first page after the word "no?"

Mr. NIXON. Yes; in the fifth line on the first page.

Mr. WILSON. So as to make it read "passenger vessel."

Mr. NIXON. Yes. We also propose to cut out the word "operated" in the seventh line.

Mr. GOULDEN. Will the captain kindly tell us why they wish those words cut out?

The CHAIRMAN. The words "operated or?"

Mr. NIXON. Some people seem to think that the word "operate" would give the inspectors the right to say how many hours a steamer should run. Whether there is any bearing on that I am not lawyer enough to know, but it seems to me that "operate" and "navigate" are two different things, especially in the case of a ferryboat or a steamer on short lines running in the daytime. We do not see that it is of any use there, anyway.

Then go on to page 2, line 4, after the word "inspectors."

The CHAIRMAN. Also in the eleventh line of page 1 take out the word "operation?"

Mr. NIXON. Yes; in the eleventh line. Then on page 2, line 4, after the word "inspectors," cut out everything until you get to line 10?

Mr. WILSON. Cut out the rest of that section?

The CHAIRMAN. Yes; down to line 10.

Mr. NIXON. Then in line 11 cut out the words "other than a licensed officer." It says, "the services of any member of the crew." They are all members of the crew, whether they are officers or sailors. We think that these are restrictions on passenger steamers. You ought to allow us to run our freight steamers ourselves.

Mr. GOULDEN. Will you kindly tell us why you want to strike out all on page 2, from "local inspectors" down to and including line 9? What are the reasons? Give us your views on that subject.

Mr. NIXON. Every steamer is inspected for the route she runs on, if you leave that out. If she runs a daily line anywhere, it is designated by the inspectors. It is not necessary to put that in.

Mr. GOULDEN. Would it do harm if it was left in; and, if so, what?

Mr. NIXON. On some lines it might do harm, in this way: Some lines could run a steamboat on a fourteen-hour schedule, and we believe one crew ought to be able to run a steamer on a fourteen-hour schedule. In fact, steamers for years past have been running on a sixteen and seventeen hour schedule, and if you cut it down to twelve we think it is too short a time. We think steamboats ought to be inspected for the routes they run on, with a sufficient crew to run on the route that they do run on. I can give you a concrete case as to why we think we ought to have some rights. The 23d of December last one of our steamers—that is, the New England Navigation steamers—was held up because every fireman on the ship went ashore one-half hour before sailing time. She is on a twelve-hour schedule, running 180 miles, and arrives at 6 o'clock in the evening at each end. The firemen went to the mess room and had trouble with the colored man who took care of and served their subsistence, and they at half-past five went to the chief engineer and said, "That nigger has got to be discharged or else we will not go out on the boat." We could not hold the boat up, so we discharged the negro. The week afterwards the same thing occurred with another man in the mess room. We told them all to go ashore and went out on the street and picked up 4 men to take the place of 10. There are 3 engineers, 2 water tenders, 2 oilers, 2 engineers, 2 donkey-engine tenders on the ship. They went into the fireroom and held it through. On a twelve-hour run they could do it easy enough. With this bill we could not start that steamer; the fireman's union would be after us as soon as she came back again. We want to give everybody the rights of the passenger steamers. We can not afford to antagonize the public; we do not intend to if we can help it; but why not let us run the freight ships ourselves?

Mr. GOULDEN. Do you not think a freight ship insufficiently manned is a danger and menace to passenger steamers?

Mr. NIXON. Not if he has got his licensed officers there.

Mr. GOULDEN. Licensed officers alone can not run a boat.

Mr. NIXON. They certainly can.

Mr. GOULDEN. It will take somebody else besides licensed officers to run a boat, in my judgment.

Mr. NIXON. Yes, sir.

Mr. GOULDEN. Therefore a freight boat that was not sufficiently manned would be a menace to all passenger steamers that it would meet.

Mr. NIXON. Most every freight boat of the Sound steamers could go without a sailor on board.

Mr. GOULDEN. Without firemen?

Mr. NIXON. No; not without firemen. I ran a steamer myself on a daily line without a pilot on board for a week, ten years ago.

Mr. STURGISS. You are a good pilot yourself?

Mr. NIXON. I stood the watch for a week, and we went safely.

Mr. STURGISS. How many captains are there who can do that?

Mr. NIXON. It does not make any difference. You can not do anything now. All spirit is gone out of the officers in the merchant-marine service to-day. The restrictions are so strong that the captain says, "It is up to me and I don't want to lose my license," and he holds back, whereas in times past if he could get the lines hauled in he could go. I am only telling you what has been done in times past. That is what made your dash and spirit of the merchant marine in times past. You have not got it now—you have not got it anywhere, even amongst the officers, or anywhere else. So far as any argument goes, my arguments do not amount to much. It is only just what I happen to think; that you restrict us too much if you put us down to what you propose there.

The CHAIRMAN. How many steamers does your line run?

Mr. NIXON. They run now 16 vessels and the lighterage department; I do not know how many there are in the lighterage department, some 20 or 30.

The CHAIRMAN. How many of them are passenger and how many freight?

Mr. NIXON. Four passenger lines; that is 8 steamers. The rest of them are freight steamers.

Mr. GOULDEN. Eight freight and 8 passenger steamers on that line?

Mr. NIXON. Yes, sir.

The CHAIRMAN. Does any member of the committee desire to ask Captain Nixon any questions?

Mr. NIXON. I wish I was an orator; I could possibly say something that would interest you, but I do not know how to do it.

Mr. GOULDEN. You have done very well.

Mr. NIXON. I have been an able seaman, and that is all there is to it.

STATEMENT OF MR. H. B. WALKER.

Mr. WALKER. Mr. Chairman, I represent the Atlantic coast and Gulf lines, operating from Portland, Me., to and including all Gulf ports. We are in full accord with Captain Nixon's suggested amendments. In considering the last bill introduced by Mr. Goulden we have approached it with the idea of making as few alterations in that as possible. Page 1 is entirely satisfactory to our lines, as amended. This bill is H. R. 16987.

Mr. GOULDEN. You allude to this bill as now amended?

Mr. WALKER. Yes, sir.

Mr. CLARK. It is satisfactory as Captain Nixon has amended it?

Mr. WALKER. We have no objection to it if the committee wants to amend it as he does.

Mr. CLARK. In other words, you do not care anything about the word "passenger" before the word "vessel" in the fifth line on page 1?

Mr. GOULDEN. And you do not care anything about the word "operated" in line 7, page 1?

Mr. WALKER. No, sir.

Mr. CLARK. I would just like to ask this. You are satisfied, then, with this first page of the bill without the amendments suggested by Captain Nixon?

Mr. WALKER. Yes, sir. I did not know the amended bill was before the committee, but I see it is now. That is, the bill that has been interlined is entirely satisfactory to the Atlantic coastwise and gulf lines.

The CHAIRMAN. You mean the bill 16987?

Mr. WALKER. Yes, as amended.

The CHAIRMAN. As amended by Captain Nixon?

Mr. WALKER. No. I will read the amendments. No change on page 1. On page 2, sixth line, after the word "day," add "or to operate as a freight vessel only, a vessel whose certificate of inspection covers the carrying of passengers." That is simply to legalize the change in the character of the ship from a passenger ship to a freight ship.

In the ninth line, page 2, "of navigation or change of service in which the vessel is to be conducted."

Mr. FOULKROD. What is the effect of that change?

Mr. WALKER. That simply permits you to change the character of the ship from a passenger to a freight ship, and as a freight ship to carry a smaller crew in all cases. You do not require as large a crew.

On line 11, page 2, take out the words "other than a licensed officer." Our reason for making that suggestion is that if we were to proceed without a licensed officer it would be a violation of law, the effect of which would be to vitiate our insurance in the event of accident, and also debar us from pleading the limited liability act, which vessels have a right to do. We provide for that in line 22, after the words "other than," by adding "or in case of an insufficient number of licensed officers to a penalty of \$500."

Mr. CLARK. Who pays the penalty?

Mr. WALKER. The steamship company or the master of the vessel.

Mr. JOYCE. Why not put in a penalty of not more than \$500, making that a maximum amount and leaving the amount in the discretion of the officer making the fine?

Mr. WALKER. I see no objection to that. That covers our suggestion.

Mr. NIXON. In section 4499, I think it is, there is a provision for a fine of \$500 for running a vessel under certain condition. That lies against the owner. There is no place in the law that I know of where a captain or master is fined more than \$100. There may be. I think if you are going to raise it to \$500 you should say either the owner or the master, for if you fine the master \$500 your ship is going to lie still a good many times when she would run under other conditions.

As suggested by me, if the fine were against the master, the operation of that would be that the steamship company or the owners of the vessel would pay that \$500.

Mr. LIVINGSTON. I would like to be sure that I understand the gentleman correctly. If I understood him correctly, he said that the first page of this bill was satisfactory. I understood Captain Nixon to object to the word "operated" in the bill. Do I understand that you do not object to the word "operate" or "operated"?

Mr. WALKER. We do not object to it; no, sir.

STATEMENT OF MR. A. J. GRYMES, REPRESENTING THE ERIE RAILROAD.

Mr. GRYMES. I represent the Erie Railroad. We have some water stock as well as rolling stock.

The CHAIRMAN. Did you say "water" or "watered?" [Laughter.]

Mr. GRYMES. Some of our old boats, a few of them, are somewhat water-logged, or water-soaked, and therefore we can claim to have a little watered stock as well as water stock.

Mr. Chairman and gentlemen, our objection to this bill No. 16987 is that on the first page and all through it we desire the word "operate" stricken out. We desire to confine the authority of the local inspectors and their superiors to the navigation of boats.

Mr. GOULDEN. Will you kindly tell us why you object to the words "operated" and "operation?"

Mr. GRYMES. Because we think the navigation of the boat, in the first place, covers everything that is required for the safety of the public and the transportation of freight. Now, the word "operate" or the word "operation" covers a good deal of ground.

Mr. COX. What is the difference? Tell us specifically the difference between the two words.

Mr. GRYMES. Between the word "operate" and the word "navigate?"

Mr. COX. Yes.

Mr. GRYMES. Operation is the process of conducting safely the vessel from one port to another or from one point to another in a harbor. Operating means the manning of the boat or handling of the cargo, and the charging for the transportation of the goods, and various things I could enumerate; but it seems to me that the "navigation" is everything that is required, as I said awhile ago, in the safe conduct of that boat; therefore we think that the word "operation" should be stricken out.

Mr. GOULDEN. You think the word "operation" does not cover holding the owner of the boat responsible for any criminal negligence, for instance, in not fitting the boat out properly?

Mr. GRYMES. My dear sir, we already have the boat inspected as to safe appliances.

Mr. GOULDEN. We have the instance of the *Slocum* also in the same condition, the most rotten thing that ever sailed the water.

Mr. NIXON. That is over.

Mr. GOULDEN. Yes; but I am afraid of a recurrence of that, Captain, even before you and I have passed to our reward.

Mr. NIXON. The *Slocum* affair was the result of a condition that existed, and it required an example to show what the inspection service of the United States was, and it would have continued to this day if that had not happened, or some other similar accident.

Mr. GRYMES. We would also like to suggest that the clause on page 2, line 4, beginning "but should the master," down to and including line 9, be stricken out. That mentions the specific number of hours. We think that the local inspectors should know, and do know, and they are the people to know how—we are perfectly willing to give them the authority, and we think they should have the authority, to designate the officers and the crew that are necessary to navigate the boat in specific work, harbor or coast or lake; but we think you should not

limit the inspectors to a certain number of hours, but let them use their own judgment as to the hours that a certain number of officers and men should be allowed to work. If they think they should not be allowed to work a certain number of men that they may designate more than six hours, seven hours, or eight hours, let them say so. If they should work twelve or thirteen or fourteen hours the number of men that they name, all right, let them say so. We are perfectly willing to abide by their decision, with the right of appeal.

Mr. COX. In your judgment is it not a fact that overwork often permits or brings about carelessness on the part of operators of boats?

Mr. GRAYMES. I have never known of a case of that kind, and I have been in the business in New York Harbor for twenty years.

Mr. COX. You would simply throw the restriction off as to the number of hours, and leave that entirely in the judgment and discretion of the local inspectors?

Mr. GRAYMES. Absolutely. They are the people that know what the conditions are better than anybody else, certainly better than Congress knows.

Mr. COX. Suppose an inspector should say that this boat should be operated twenty-four hours or forty-eight hours with the same crew, then would not you say that that would have a tendency to bring about carelessness?

Mr. GRAYMES. I can not conceive of a case where a local inspector would allow a boat to be operated twenty-four hours or sixteen hours with an insufficient crew.

Mr. COX. Just on this point I have a communication here from the American Pilots' Association, which represents 8,000 members, which takes up that very point and emphasizes that point as to men who are overworked. I will state in this connection that with that exception they are in favor of the bill as it is.

Mr. GRAYMES. It is entirely possible for a steamboat man to work longer hours than he should.

Mr. WILSON. Do you think our inspectors are just right always in their inspections?

Mr. GRAYMES. No, they are not just right any more than any other body of men would be just right; but they know better, because they are in a position to know better, than any other Government official what the right thing is. And we are perfectly willing to leave it to them to tell us what the right thing is in their judgment and to abide by their decision, with the right to appeal if we think they are wrong.

Mr. WILSON. As a matter of fact, do they not grow careless at times?

Mr. GRAYMES. We do not know of any instances where they have grown careless.

Mr. WILSON. How about the *Slocum* disaster?

Mr. GRAYMES. I would not like to pass an opinion on that.

Mr. WILSON. As a matter of fact, was not that carelessness, pure and simple, on the part of the inspectors?

Mr. GRAYMES. Now, I would not like to say that, because I am not familiar enough with the details of the case to give you an opinion on that. I only know what I read in the newspapers, and I do not like to form a definite opinion on such information. However, Mr. Chairman, our company operates 17 ferryboats in New York Harbor and 15

tugboats, and we transport in the neighborhood of 20,000,000 passengers on our ferries.

Mr. GOULDEN. Yearly, you mean?

Mr. GRYMES. Yearly; yes, sir. We transport over 2,000,000 tons of freight and over 1,000,000 tons of coal from the Hudson River, New York Harbor, and Long Island Sound, and for that reason we think our opinions are entitled to consideration.

Mr. CLARK. As I understand your statement, you agree entirely with Captain Nixon as to the amendments that ought to be made?

Mr. GRYMES. Practically; yes, sir.

Mr. CLARK. But is there any difference between you?

Mr. GRYMES. I do not know that there is any difference except that Captain Nixon mentioned limiting the discretion of inspectors to passenger steamers only. We have no special objection to including our freight boats. We believe they will be fair enough to deal with us justly on passenger and freight boats alike. However, I think the word "operated" should be eliminated, because I think it is likely to complicate matters very much. We think if they supervise the safe navigation of our boats that is all they can do.

The CHAIRMAN. How much loss of life have your steamers occasioned?

Mr. GRYMES. We have not lost a passenger for the last five years, not one. That is pretty good evidence, I think, that the laws are pretty fair as they are. Nevertheless, we do not object to the amendment.

Mr. GOULDEN. Your boats are exclusively ferryboats?

Mr. GRYMES. Yes, sir.

Mr. HINSHAW. That is, right around New York Harbor?

Mr. GRYMES. Yes, sir.

Mr. WILSON. Do you not have practically the same rule now in regard to the number of hours in any one day, except that you have a thirteen-hour day instead of a twelve-hour day?

Mr. GRYMES. The inspectors note on the certificate of inspection, many times, that if the boat is operated more than thirteen hours a certain crew is necessary.

Mr. WILSON. Then this bill is simply enacting into law rule 9 as it exists now, except that you have here twelve hours instead of thirteen hours?

Mr. GRYMES. That is the difference; yes, sir.

Mr. WILSON. And you have not any reason to complain of the rule as it exists now?

Mr. GRYMES. Personally we have not found any trouble at all, but we see no reason why a law should be enacted limiting those hours and limiting the inspectors, because some boats may go into service and work an hour or two and lie still five or six hours and then go ahead and work an hour or two more; and if, in the judgment of the local inspectors, the conditions warrant a single crew, as it is termed, for a boat, they may, and it may come out and work five or six hours in thirteen hours, say; it is all right for them to say so, and I think it should be left to their discretion. There are a great many local conditions that can not be properly and justly covered by a general law, and it is for that reason principally that this authority is wanted in the hands of the local inspectors who are familiar with the local conditions, and you gentlemen, I think, should have judgment

enough and confidence enough in those Government officials to allow them to designate the crews and the officers.

Mr. CALDER. Do you notice that that says "twelve consecutive hours;" twelve out of twenty-four?

Mr. GRYMES. Yes.

Mr. CALDER. I suppose that you know that it calls for twelve consecutive hours in the part that you want stricken out?

Mr. GRYMES. Yes; and our boats especially that work over twenty hours have double crews, and they work twenty-four hours per day.

Mr. GOULDEN. Then it would not affect your line at all?

Mr. GRYMES. It would affect it if a boat happened to be delayed and could not get back in the appointed time. It might come back only fifteen or twenty minutes overtime.

Mr. COX. How long do you work your crews?

Mr. GRYMES. Twelve hours, as a rule, on the tugboats. Ferry and passenger boat crews, eight hours, and freight-boat crews, twelve hours. That is the maximum, and others work less time.

Mr. GOULDEN. Then this would not affect your passenger-boat service at all?

Mr. GRYMES. No, sir.

Mr. GOULDEN. But only your freight boats?

Mr. GRYMES. Yes, sir.

Mr. DOW. If I understood the gentleman correctly, he said that the operation of a vessel would mean the crew and officers. I do not know that I caught you correctly.

Mr. GRYMES. The operation would mean the crew and officers?

Mr. DOW. The crew and officers.

Mr. GRYMES. No; I do not mean it that way. The operation of a boat would include the crew and officers for the safe navigation of the boat.

Mr. DOW. As to the operation, what was your definition of that?

Mr. GRYMES. That would mean the transportation of freight, the cost of the transportation of freight, the safe delivery of freight, and all that which the local inspectors have absolutely no interest in at all.

Mr. DOW. Would the gentleman believe that if the word "operation" was left in there that would give the local inspectors authority to say what it would cost to handle the freight, and so on? I do not think I understand him that way.

Mr. GRYMES. We do not know how far, Captain Dow, the local inspectors might consider their authority would go. We do not know to what extent they might think they were at liberty to go. That is our position.

Mr. DOW. Then I understand it that if it were decided that the word "operation" would have nothing to do with the cost and the transportation of the freight, the gentleman would agree to have it left in there?

Mr. GRYMES. No; we would not, because we think it is entirely superfluous and is likely to lead to unnecessary complications, where the word "navigation" is absolutely all that is necessary for the safety of the public and the safe transportation of freight.

Mr. DOW. I would like to ask the gentleman, then, if I understand him correctly to mean that the word "navigation" will cover the crew and the officers of this boat while she is on her voyage.

Mr. GRYMES. Absolutely, sir; that is my understanding.

STATEMENT OF MR. GEORGE UHLER, SUPERVISING INSPECTOR-GENERAL STEAMBOAT INSPECTION SERVICE, DEPARTMENT OF COMMERCE AND LABOR.

Mr. UHLER. As the fellow who perhaps precipitated all this mischief, it might not be out of place at this time for me to enlighten the committee a little bit upon the necessity for this legislation. I do not believe that all of the committee realize or appreciate the conditions that brought about the necessity for this legislation. In 1871 there was enacted what was known as the steamboat bill, which incorporated in its provisions section 4463, which provided that no steamer carrying passengers should leave port unless she should have on board a sufficient complement of officers and crew to operate the boat at all times, including the watchmen, which were supposed to be watchmen in the cabins. There was nobody who would assume the responsibility of designating that crew. The collector of customs denied jurisdiction, and local inspectors denied jurisdiction; the shipping masters, if you please, denied jurisdiction. So that there was practically no specific authority to carry into effect the provisions of that section of the law. For many years it was a sort of go-as-you-please lay out, and steamers generally carried about as many officers as the owners or the operators of the vessels thought were necessary for their safe navigation. There came a time when the board of supervising inspectors found the necessity for designating some specific number of crew to operate a vessel with safety, and when they presumed to do that they realized that there was the same necessity existing for a safe crew on a freight boat as there was on a passenger boat.

They formulated a rule which was approved by the Secretary, rule 9 as it is now, authorizing local inspectors when inspecting a vessel or when making out their certificates to specify upon the face of the certificate a sufficient number of officers and crew to operate that vessel with safety at all times. I do not just call to mind now when that special rule was enacted, but I believe it was in 1889. There was no question as to the advisability or the desirability of that rule, and no objections whatever were made. The local inspectors when making out a certificate of inspection designated in the certificate of inspection a certain number of officers and crew.

In 1892 there came up a question in Norfolk as to the violation of the certificate of inspection of the tug *Piermont*, when Judge Hughes, sitting then in the United States district court for the eastern district of Virginia, ruled, or gave his opinion—an opinion, I suppose, from the bench, because we can find no record of its having been published—that the board of inspectors have not any right to delegate that authority to the local inspectors. They might make a rule themselves specifying a certain number of men and crew for this boat and that boat, but it was contended by Judge Hughes that they had no authority to delegate that authority to the local inspectors and say, "You must do that work." It was contended by Judge Hughes that they had no such authority. At that time—it was in the fall of 1892, as I remember—the Department had ordered that the United States attorney for that district appeal the matter, appeal from the decision of Judge Hughes; but just at that time there came a change of Administration, and the matter was lost sight of and I have no recollection of the case ever having been appealed.

Notwithstanding the decision of Judge Hughes, the local inspectors went on just the same as they had been doing for several years, specifying the number of licensed officers and crew necessary to navigate a vessel with safety, until 1903, when at the suggestion of Judge Henderson, who was the counsel for the Southern Railroad, the very same case came up again, and as it so happened, with a steamboat of of the same name, the *Piermont*, one of the tugs of the Southern Railroad Company. The complications of the matter then became apparent, and the matter was referred to the Attorney-General for an opinion. The Attorney-General—if you will bear with me, I am a little bit ahead of my story. I want to go back to 1889, to show the committee the influence of the Secretary of the Treasury at that time upon the right of local inspectors to designate this crew. In Treasury Decision No. 9478, under date of July 9, 1889, the Secretary of the Treasury, Mr. William Windom at that time, said to the collector of customs at Dubuque, Iowa, or rather to the surveyor of customs:

The question of deciding the proper number of officers a steamer shall carry is one wholly within the discretion of the inspectors of steam vessels who granted the certificate.

The Treasury Department at that time believed and so decided, that that was a proper authority for the local inspectors, and that was the authority under which they worked until 1903, when the Attorney-General of the United States gave an opinion practically upholding Judge Hughes in his opinion that the board of supervising inspectors might make a schedule specifying the number of officers and crew, but that it was not within their province to delegate that authority to the local inspectors.

Notwithstanding that opinion we proceeded in the same manner; we went right along and continued to specify the crew. There were a few complaints or a few appeals, but the fact remains that while our certificate of inspection called for two pilots and six in the crew, the master of that vessel would navigate her with one pilot and one engineer, or none, in the crew. When a complaint came up, a boat was fined. The fine had to be remitted, because the local inspectors were unauthorized to specify in the certificate of inspection. From that time until this, I have recommended in every report that I have made that this section 4463 be so amended as to give to the local inspectors, the only men who can consistently specify a ship's crew, the authority to designate for every vessel under their jurisdiction a crew sufficient for her navigation. The local inspectors of steam vessels to the steam vessels under their jurisdiction have exactly the same relation as a doctor and his patients. They know every one of them, they know their conditions, they know the services in which they are engaged, they know the distress of that service and everything connected with it. And who, I want to ask, is more competent to specify that crew than that man who knows all of those conditions?

Mr. HINSHAW. Excuse me. Who appoints these inspectors?

Mr. UHLER. They are appointed from the civil-service list.

Mr. HINSHAW. By the Civil Service Commission?

Mr. UHLER. No, sir; by the Secretary, from a list.

Mr. HINSHAW. What salaries do they get?

Mr. UHLER. Fifteen hundred dollars in some places and \$2,500 in others.

Mr. HINSHAW. Is not a severe examination required for their employment?

Mr. UHLER. There is a sufficiently severe examination to test their qualifications, which they all must pass before they enter the inspection lists.

Mr. CALDER. Are there several classes of inspectors?

Mr. UHLER. There are but two classes, the local and assistant inspectors. The assistant inspectors must have the same qualifications as the local inspectors, with the exception of the period of their experience. Five years are necessary for a local inspector; three years are sufficient for an assistant inspector. But aside from that their qualifications are the same.

Mr. CALDER. They are inspectors of hulls and inspectors of boilers?

Mr. UHLER. Inspectors of hulls and inspectors of boilers; yes, sir.

Mr. WILSON. May I ask you to tell us what you think of these amendments that have been offered this morning? Take the one proposed in line 5, page 1, inserting the word "passenger" before the word "vessel;" what do you think of that?

Mr. UHLER. I think that the purpose of the legislation would be practically defeated.

Mr. WILSON. It would?

Mr. UHLER. Yes, sir; from the very simple fact, Mr. Wilson, that we have the same necessity for a full crew on a freight vessel as on a passenger vessel. The safe navigation of a freight vessel is just as necessary as of a passenger vessel, except that in the larger class vessels there may be more souls on the passenger steamboat; but I believe that the crew of a freight vessel are entitled to just as much consideration as the passengers on a passenger vessel.

Mr. CALDER. What is your opinion as to the relative values of the words "operated" and "navigated"?

Mr. UHLER. I have no particular objection to striking out the word "operated." I do not think it cuts much of a figure either way. It might be said by a local inspector that in moving a vessel from one dock to another—towing a vessel from one dock to another—it should be interpreted as navigating, and that she must have a full crew. I do not believe it would hurt a particle to let it stay in; I do not think its elimination would mean anything.

Mr. NIXON. As this bill reads, does it not include every little coasting vessel, whether propelled by steam or sail?

Mr. UHLER. How do you mean, sir?

Mr. NIXON. It says "vessel;" it does not say "steam vessel."

Mr. UHLER. No; we have no jurisdiction over any sailing vessels. What we have is entirely provided for.

Mr. NIXON. You say the inspectors are appointed by the Secretary. What Secretary do you mean?

Mr. UHLER. The Secretary of Commerce and Labor. The recommendation is made by me from a list of eligibles that have been certified by the Civil Service Commission.

Mr. FOULKROD. As a rule, are these people that are appointed satisfactory to the owners and the people who operate the vessels—that is, do they believe that they are competent?

Mr. UHLER. I guess they do, because we have never had any complaint as to their competency.

Mr. FOULKROD. You never have had any complaints of the people who are in these places?

Mr. UHLER. We have had complaints, not of the competency of the inspectors, but of the honesty of two of them, both of whom were removed, when, after investigation, we found the complaint was well founded.

Mr. GOULDEN. How long have you been supervising inspector-general?

Mr. UHLER. Five years on the 1st of April.

Mr. WILSON. What do you think of the other amendment on page 2, where they propose to strike out from line 4 to line 9, inclusive?

Mr. UHLER. I think that is perfectly right.

Mr. WILSON. You mean that it should be stricken out?

Mr. UHLER. No; I do not think that it should be stricken out. I think it should remain, because it would give to a vessel owner a privilege that he does not enjoy now. That is, if at the last moment, when his vessel was ready to sail, from bad disposition or from devilment of some member of the crew or all of them, they would say "We intend to tie that vessel up here for a certain time," if that man has men enough on the vessel to say "Let her go," and to make a report on the conditions that necessitated his sailing, within twelve hours after arrival at his destination, very well. If he does not make that report within a certain given time they fine him \$50, or whatever it may be; but if after an investigation by the local inspectors they should find that his vessel was not fully manned, and that he sailed with a view of not having a sufficient number of crew to operate her safely, fine him and make him pay for it.

Mr. SPIGHT. What do you think of the proposition to strike out the words "other than a licensed officer," in line 11, page 2?

Mr. UHLER. I do not believe in striking that out, because the licensed officer's condition is already taken care of. It is taken care of in the general law. If they sail without a licensed officer they are subject to a fine, anyhow, under section 4499.

Mr. SPIGHT. Has your attention been called to the amendments offered to this bill, not by Captain Nixon, but by Mr. Walker?

Mr. UHLER. Yes, sir; my attention was called to them.

Mr. SPIGHT. What do you think as to those?

Mr. UHLER. I see no objections to them, because the inspectors have the privilege to-day to do that, to change the character of the vessel. Mr. Windom, in 1899, incorporated in that decision this paragraph:

Inspectors also have the power, upon application, to change the character of a steam vessel at any time by indorsement on the certificate, and may at the same time reduce, if they deem proper, the number of officers required.

So it has always been the understanding of the Department, and it has always been the understanding of the authorities who have jurisdiction over the steamboat inspection service, that the local inspectors were fully authorized, and that they had competent authority to pass upon this question.

Mr. GOULDEN. Therefore you do not believe the amendment is necessary?

Mr. UHLER. No, I do not think it is necessary. I do not think that it would hurt anything.

Mr. CALDER. You have no objection to it?

Mr. UHLER. None whatever.

Mr. HUMPHREY. Are you in favor of the bill as it now stands, without amendment; and if not, what amendment do you think is vital that ought to go in?

Mr. UHLER. I have no objection to the amendment as suggested by Mr. Walker, but outside of that I should seriously object to any further emasculation, I might call it, of this bill, because it would be hard of interpretation.

Mr. HUMPHREY. Do you think Mr. Walker's amendment is necessary?

Mr. UHLER. No, I do not; but I do not think it would hurt anything.

Mr. COX. "Or in case of an insufficient number of licensed officers, to a penalty of \$500."

Mr. UHLER. No; 4499 provides for a penalty for the violation of any provisions in this title not otherwise provided for.

Mr. DUFF. Have you any objection to the striking out of the words "other than a licensed officer," in view of the amendment at the end of line 22, that is, after the words "hundred dollars" insert the words "or in case of an insufficient number of licensed officers, to a penalty of \$500?"

The CHAIRMAN. "Not exceeding \$500."

Mr. UHLER. So far as that is concerned, I would leave that to the legal talent of the committee. I think they are better qualified to pass upon that than I am. We want the penalty, but I do not believe in making the penalty so drastic that it would have to be appealed, and that the appeal from the penalty would bring about such a sympathetic feeling that it would induce the reduction or mitigation of the penalty. I say, let us have a penalty that will stick, that we can make them pay, and make them realize that they are up against something.

Mr. CLARK. Your idea is that this legislation is necessary?

Mr. UHLER. Absolutely.

Mr. CLARK. And you think it ought to be adopted as in this bill, without amendment, although you think to offer an amendment would not injure it in any way?

Mr. UHLER. I think not. I would have no objection to it. I would like to say one word more upon the necessity for this legislation, and that is this. Generally speaking, we have but little trouble with passenger boats. As a general thing passenger boats are fairly manned; in many instances, and in fact in the majority of instances, they are fully manned. We have more trouble with the fellow who runs thirty-six hours at a time or twenty-eight hours at a time, or thirty or thirty-two hours. Now, I went to sea long enough to know that after a man stands watch twelve or fifteen hours he is not worth much, and while I was very much interested in Captain Nixon's remarks, and I heard him say he had run a steamboat on Long Island Sound for a week, ten hours at a time, it is nothing more than might be expected of a man of Captain Nixon's physique and disposition. It is not everybody that can do that; and I want to say to you gentlemen here that a man who stands a watch of six or eight hours, even, in the pilot house of a steam vessel on a straight line, even, on a bad night, is not worth much after that six or eight hours, and it is the same way with the

man in the engine room. And the man that stands watch four hours in bad weather, or twelve hours in good weather, is not worth much afterwards; I know that much. I had pretty nearly thirty years of it, and I know what it means, and I can realize the necessity for this legislation for these reasons.

Generally the local inspectors of this service are men who have had considerable experience. Under the present rules they must have had the experience to enter the service. They know the necessities of certain services; they know the boats under their care; as I said before, they know the distresses of that service. If a boat is to run twelve hours or twelve and a half hours, and they know that that is that boat's regular service, I do not think there is a local inspector in the country that would specify a double crew for that boat, unless it was a large boat with complicated machinery and with a great deal of deck space to carry a great many passengers, that would require a couple of mates and two pilots, maybe two pilots on watch, for instance. It does not cut any figure at all. What I mean to say is it does not entail any unnecessary distress. I think that after the vessel works twelve hours in one day, or thirteen hours, or whatever it may be, there should be a relief. I do not think that a man is fit for the balance of it, not only on account of the vessel he himself is on, but there are 10,000 or 20,000 other vessels sailing around that are at the mercy of that fellow, perhaps, whose engineer or whose pilot is asleep.

I want to say that we had a case not a great while ago in New York City where a pilot of a certain tug went into the end of a dock head on, full speed, and when it was investigated he had no excuse, he had no explanation of it, except that he was asleep. He was asleep good and plenty, just as sound asleep as he ever was in his bunk. And why? Simply because he had been working so long up to that time with no relief that nature asserted itself and he went to sleep. You take a man who stands the watch from 12 to 4, or from 4 to 8 in the morning, and it is an awfully hard job for him to keep awake after he has had his sleep the night previous, and how much harder it must be for a man who has been up all the night previous, at 4 o'clock in the morning.

Mr. SPIGHT. That applies to the importance as to freight vessels as well as to passenger vessels.

Mr. UHLER. Absolutely. I would apply it to every sailing boat on the coast, if we had jurisdiction of them. I believe that sailing vessels should have licensed officers, one or two or three, for the protection of the passenger boats as well as for their own protection. I think they should have licensed officers so that we may know something about them. In the case of 90 per cent of the collisions we have now between sailing vessels and steam vessels we find that the officer of the sailing vessel has no license and is responsible to no one. We may find one once in a while with a Canadian or a British certificate or a Nova Scotian certificate, but we have no jurisdiction over him at all. He has not committed any offense against his own certificate; the accident happened in American waters and he is safe. The necessity does exist for this legislation, and I believe that while in the majority of instances, in a large majority of cases, the steamboat owner is anxious and willing to have his property conserved, and the people who are operating that property carefully looked after

and properly guarded, there are some, Mr. Chairman and gentlemen, who do not care anything for it, and who depend upon the poor devil whom they make do the work to stand the consequences. Mr. Chamberlain and myself went over a case a while ago where we had a record of a vessel that had been navigating thirty-eight and forty and forty-eight hours on a stretch with one man in each position. You know what that means. It means that the captain was asleep and the cook was steering, and that the engineer was asleep somewhere and the fireman was doing that act.

Now, it is entirely wrong, and the necessity for the legislation that I want to impress upon the committee is this: In the first place, we must have this authority defined. Congress only can define that authority. Congress alone can give to the local inspectors this authority. The opinion of the Attorney-General, which has been upheld in that decision of the solicitor of our Department, Mr. Earl, is that the board of supervising inspectors can not delegate that authority, and it is just as impossible for that board of supervising inspectors to sit around their table up there and make provisions for a proper crew for the tug *Jim Smith* of Buffalo as it is for you gentlemen of this committee to do it sitting around your table here. We do not know how to do it. We know there is a tug there named the *Jim Smith*, and we know she is 25 tons, but we do not know whether she operates twelve hours or six hours or twenty-four hours in the day. What are you going to do with that fellow? Are you going to make a special class or are you going to say: "The tug *Jim Smith*, if she works thirteen hours, may operate with a crew of two and one pilot, and if she works over twelve hours she must have a double crew?" So it is all over the country. I believe that the local inspectors are the only ones that can pass on this subject. If it is necessary to have a provision for an appeal in there, I believe it is all right. Let them appeal if they believe they are being unjustly dealt with, the same as in other things. They have that right in other things.

But give us this legislation; define this authority so that we do not have to be going on from year to year in this way. I have no hesitation in saying that Mr. Littlefield told me one day when he happened to be aboard a steamboat he looked at one of these certificates of inspection, and a fellow that was there said, "That isn't worth anything. They have defined the crew in there, and they have no more right to define the crew than I have." And Mr. Littlefield said, "Well, is it possible that the Government issues a document like that, to have a man come up to me and tell me that it is no good?" Now, there is a necessity for this legislation. That there is a necessity for having the local inspectors designate the crew is apparent, at least to me, and I think to everybody else who looks at in a fair light. I do not believe that any great hardship is going to be imposed upon a man if he does not happen to get back to his dock to meet his relief, but goes on for twelve and a half or thirteen hours. I do not believe that case would ever come to the surface; but if it did, the appeal would be promptly disposed of correctly, and I see no harm in it at all, and I think it should be there, and I think they should specify just what they can do. I think that the necessity for having this apply to freight boats and to every steam vessel is obvious. I would like to go a good deal further, and I have recommended in my reports for several years that this legislation should apply to everything that is

propelled by power. Let it apply to gasoline boats, and everything. There is no reason why because a boat is propelled by a motive power other than steam she should have any prerogatives over others. Let us have jurisdiction over all of them.

Mr. Chairman, I want to say to you that I am in favor of this bill, and I hope the committee will give us the legislation.

Mr. CLARK. You state that you are in favor of extending this legislation to all boats and vessels, sailing vessels and others. Now, down with us we have people engaged in the fishing business, and a great many of those people have of recent years put little engines in their boats so as to get their fish into the markets, and all that kind of thing. You would not want these inspection laws to apply to those boats?

Mr. UHLER. They are already covered by the act of Congress.

Mr. CLARK. Of course they are; but would you want this to apply to them?

Mr. UHLER. I would like to see it under direct jurisdiction. I would like to see it done that way, instead of having a committee of Congress sitting back here and making emphatic and positive rules which in some cases apply and in other cases can not apply, and are absolutely impracticable.

Mr. CLARK. Your idea is that it should apply to everything that involves the sea?

Mr. UHLER. Yes, everything that navigates the navigable waters of the United States, and I would have those navigable waters defined. I would have those navigable waters defined to the effect that everything in the United States that is navigable in fact is navigable under the law. If they are waters that it is possible to navigate, then they will be decared navigable waters of the United States. As it is now we have hundreds of inland lakes where there are hundreds of thousands of lives that are at the mercy of people who know no more about the operation of boats than my little boy does, and we have no authority over them simply because they are within the State limits.

Mr. SPIGHT. You want them under the authority of the inspection service?

Mr. UHLER. Yes, sir; if the service is for anything it is for that.

Mr. COX. It is for protection?

Mr. UHLER. Certainly so. That is the object of the organization of the service, for bettering the protection of life and property; and if we do not do that the purpose of the organization of the service is lost.

Mr. CLARK. You spoke of these local inspectors being appointed, when they are appointed, as the result of a competitive examination under the civil service.

Mr. UHLER. Yes, sir.

Mr. CLARK. Now, I would like to ask you if these men are examined, under the civil-service rules, particularly with reference to their knowledge of these affairs with which they have to deal, or is it one of these general civil-service examinations where the applicants are asked questions that have no more to do with the duties they perform than the north or south pole?

Mr. UHLER. No, sir; they are absolutely confined to the service required of them.

Mr. CLARK. I wanted to get that point.

Mr. UHLER. The papers are examined by some one who is absolutely qualified. I do not know the name of the engineer examiner in the Navy Department, but he is a gentleman of high rank who has had considerable experience, who marks those papers. I do not know who he is.

Mr. GRYMES. Did we understand you to say that you see no special reason why the word "operate" should not be stricken out, and that in some cases it might tend to complicate the matter of the duties of the inspector?

Mr. UHLER. No; I say I have no feeling in the matter at all. I do not think that the word "operate" cuts any figure. I believe the word "navigate" would be sufficient. Neither do I believe that the word "operate" will do any harm. We have it in other sections of the law.

Mr. GRYMES. But it is likely to create complication, is it not?

Mr. UHLER. No. Complication might arise from the interpretation of anything, and for that reason you can not make a statute absolutely certain.

Mr. GRYMES. Therefore should we not cut out all superfluous matter?

Mr. UHLER. Yes; superfluous matter. If there is anything there that is superfluous, cut it out. If in the minds of the committee this is superfluous, cut it out. It depends on the interpretation you put upon it.

Mr. JOYCE. An Old Dominion steamer is operating when she is at her dock and her cargo being put on board. She is operating when all her licensed officers are in bed and asleep, but she is being navigated when she is running and every officer is at his post.

Mr. UHLER. No; she is not being operated when she is lying at her dock; the vessel herself is not being operated. My interpretation of that would be, if they tow a vessel from one dock to another that it might be interpreted that she was being operated.

Mr. JOYCE. Not under her own power?

Mr. UHLER. Not under her own power.

Mr. MORAN. Suppose this question should come up, that a tug is being operated with two different crews working, watch and watch, twelve hours each, and we send her to Sandy Hook or some such place, and there she finds herself in a thick fog, and she lies there twelve or fourteen hours. Now, under the interpretation, to "operate" is to work. To navigate, to make a plain interpretation of the word, is to manage the ship, to have charge of the management of it. Would you interpret that that boat, lying in a dock at Sandy Hook twelve or thirteen or fourteen or fifteen hours, was being navigated, or would we operate that boat contrary to the provisions of section 6, rule 9, or this proposed clause of this bill here, No. 16987?

Mr. UHLER. I think that you would, if you started out without any knowledge of how long you were going to navigate that vessel. You may get back in six hours or you may get back in two hours or you may get back in twenty hours.

Mr. MORAN. I see. Would we be liable to a fine under section 6 of rule 9, provided we met with that delay, with no knowledge of what was going to happen when we started?

Mr. UHLER. I do not know; it would be a question as to the circumstances of the operation entirely.

Mr. MORAN. Do you not think that question is an important one?

Mr. UHLER. Oh, yes; a very nice point to determine.

Mr. MORAN. Do you not think that we would leave ourselves liable to any man on that boat to bring charges against us?

Mr. UHLER. We are all liable to have charges brought against us by anybody. That same liability exists anywhere.

Mr. MORAN. What we want to get is an interpretation of that as to its application.

Mr. GOULDER. Before you take your seat, Mr. Uhler, may I recall to your mind circumstances with which you are certainly quite familiar? Let us take the Lake steamers. In the spring very frequently, in thousands of cases in the spring and fall, the ships go in advance of the opening season of navigation to be loaded. They take cargoes of coal, and occasionally of iron ore or wheat or grain, to be stored during some part of the winter, deliverable to the consignee at his request at any time before the opening of navigation. Now, the invariable custom is to have those vessels with somebody aboard. They do not get up steam, but they want to have somebody aboard who is capable of looking after things. The vessels are towed by a tug astern and ahead and the wheel is put amidships, and they are absolutely in control of this tug. Under such circumstances as that would you say that those vessels were being navigated? They are towed about practically as so much freight by tugs and all the rules of navigation are applied just as if they were cargo. Now, I can not see but what the owner of a ship being towed in that way may be said to be operating a ship. Absolutely he is not navigating her, and the Supreme Court of the United States has so held. I remember a case that I had in Chicago were one of the Wilson Line boats was involved.

Mr. UHLER. I would not call that a ship; in that condition I would call her a lighter.

Mr. GOULDER. Nevertheless she is a steamship; and do you think it is wise to have words of that character in there? There would be those who would say, and I am afraid that I would be one of them, that that ship was being operated, and yet there is no evidence entering into the question of safe navigation on the part of the ship herself in such circumstances. Thousands of those cases occur every season.

Mr. UHLER. I would not stand for a minute on that. As I have expressed it here, I think it cuts no figure, so far as I am concerned.

Mr. GOULDER. Are you speaking now from your official position on that, or is that your individual opinion? Is not after all the desirable thing to regulate the navigation of a ship and the use of her appliances, her steering gear, her direction, and the use of her engine power, and so forth, by the engineers of that ship, where she is being employed? When she is navigating that is done. I think the word "operation" is general. I think you will find on reflection that that is too broad a word.

Mr. UHLER. If we went to a local inspector and we were going to tow from the Erie basin to Twenty-third street, and nowhere else, and a man would come to me and say, "Do you think we need a full crew aboard of her," you can imagine my answer.

Mr. GOULDER. I am going to ask, before we get through, with reference to different rulings of the different inspectors. We can not get inspectors to make the same rulings, any more than we get the

courts to do so; and ought not everything to be eliminated that might tend to make trouble in that way? We find the justices of the Supreme Court dividing sometimes five to four on such a proposition. Is it not best to eliminate such a thing as that, unless there is a clear and definite necessity for it, when something else takes care of the real necessity?

Mr. UHLER. If it is going to be at all confusing, yes. If it is at all confusing, cut it out. It will not hurt a bit.

Mr. MOUSER. Do you not think the word "navigating" would cover all that?

Mr. UHLER. I think so.

Mr. GOULDER. I think that would embarrass your service, because you would get an aggregation of the cases that came to the individual owner. It would be bad enough when it came to him; he would have to look after it and take care of the appeals.

Mr. UHLER. I think Colonel Goulden recognizes why that was put in there and left there. It appears in that law in previous sections.

Mr. MOUSER. Does the word "operate" in the bill itself carry the idea of "navigate?" I notice on the second page, commencing in line 4, "But should the master or owner desire to operate the vessel not more than twelve hours out of twenty-four hours in any one day."

Mr. UHLER. It says "navigate," and then it says "operate."

Mr. SPIGHT. "Operation" is a larger term, and includes "navigation?"

Mr. UHLER. "Operate" is a broader term, perhaps.

Mr. GOULDER. I think you will find it says "operate or navigate."

Mr. MOUSER. On the first page the words are used conjunctively, but on the next page the word "operate" carries the meaning of "navigate."

Mr. UHLER. If it involves contention, I would not stand a minute on it. I do not think it does any good in there, because if she is being navigated she will have to carry the crew all right. She may be operated and not navigated. She may be towed from one dock to another, as Mr. Goulden explained here. They may be using her as a lighter, towing her from place to place and discharging cargo, where a crew is not necessary.

Mr. GOULDER. She would then be operated?

Mr. UHLER. She would be operated, perhaps.

Mr. JOYCE. I will just mention one concrete case that comes to my mind. I suppose the same thing exists in different parts of the country. Take the boats running between New York and Sandy Hook that run only five months in the year, entirely in daylight and on a daylight schedule, requiring thirteen and a half hours; I would like to ask General Uhler if, after this bill is enacted as it is here, it would not compel those boats to put on a double crew because of that extra hour and a half?

Mr. UHLER. Not at all; she carries the full double crew anyway.

Mr. JOYCE. She carries fifty-four men. Then you think this twelve-hour clause would not affect a line like that running entirely in daylight and on a regular route?

Mr. UHLER. How could it?

Mr. JOYCE. With that twelve-hour clause in it?

Mr. UHLER. If she is operated more than twelve hours?

Mr. JOYCE. Yes.

Mr. UHLER. Very well; she has got a crew now. If she works only twelve hours they are not going to take off any of that crew.

Mr. JOYCE. If you work thirteen and a half hours?

Mr. UHLER. She would have the same crew she has got now.

Mr. FAIRCHILD. You would not object to striking out the words "operated or" in line 7 on page 1, leaving the word "navigated," and then substituting the word "navigate" for the word "operate" in line 5 on page 2?

Mr. UHLER. No; I think, perhaps, you would have to do that.

Mr. FAIRCHILD. To carry out the idea and avoid the contention?

Mr. UHLER. It would perhaps be necessary to do that to make the bill consistent in its provisions.

Mr. CLARK. If the suggestion made by my colleague, that you strike out the words "operated or" on the first page and then substitute the word "navigate" for the word "operate" on the second page is adopted, would not that, in view of what you and Mr. Goulden have said about the present system of laws, require that they should all be amended and this word "operate" be stricken from all of the other statutes? Have you not got a system, in other words, of inspection laws through which that word "operate" runs just as it does in this act?

Mr. UHLER. I do not think that it does, except in 4426, particularly.

STATEMENT OF MR. JOHN H. PRUITT.

Mr. PRUITT. Mr. Chairman and gentlemen, I wish to state that we are absolutely in favor of this bill for the reason that we believe that it is going to legalize that which the local inspectors have been doing practically as a custom. It is useless for these gentlemen to proceed in the inspection, inserting in the inspection certificates of steam vessels how many officers and how many men she shall carry, unless it can be done legally and lawfully. It is misleading and confusing. I see nothing in this bill that would operate to the detriment of the master and owner or anyone connected with a steam vessel, and for that reason I believe that every man in our organization, to a man, would be heartily in favor of this bill if it should pass and become law as it is.

Mr. COX. Without any change whatever?

Mr. PRUITT. Yes. I have nothing further to say, Mr. Chairman, except to refer to the decision which has been handed down by the Attorney-General of the United States, which absolutely and positively states that that which the local inspectors have been doing is absolutely unlawful, and I hope that Congress will now make what they have been doing, which is practically a custom, lawful.

STATEMENT OF MR. LUTHERE B. DOW, GENERAL COUNSEL OF THE AMERICAN ASSOCIATION OF MASTER PILOTS.

Mr. Dow. Mr. Chairman, I only want to say a few words to call the attention of the committee to the absolute necessity of doing something. In nearly every case—in fact, every case—that has come underneath my notice from long before the *General Slocum* disaster up to the present time the members of our association in charge of vessels have been absolutely powerless. It has been proven by recent cases that I have had before the law department in the custom-

house in New York that no matter whether the certificate of inspection says that a steam vessel plying Long Island Sound shall have two licensed pilots and she has only got one, they could not punish anybody.


I picked out the exact language used by General Uhler in his annual report of 1905 simply to provide somebody to have the authority to say or designate what a steam vessel should carry, so far as her crew was concerned, including the licensed officers. Vessels have been conducted all kinds of hours with all kinds of crews. I would say that in my opinion the great loss of life in the case of the *General Slocum* was because she did not have any properly licensed officers on deck.

In 1903 the United States district attorney said that nobody but the board of supervisors and inspectors had the right to designate the crews, something that they never have done in their lives and never will and never can do. They have now put it in their rules and regulations delegating the authority to the local inspectors, and the solicitor of the department distinctly says that you can not do it, and you are in the same state to-day as when the *Slocum* burned up; there is not a particle of difference; there is no more authority. It is immaterial to me. I do not believe myself, personally, now that Congress is able to say or should say what number of hours a crew should work. I do not believe, with all due respect to them, that they know anything about the subject. I believe all those things should be left with the local inspectors in the different localities, subject to an appeal by the master, owner, or agent to the supervising inspector, the supervising inspector-general, or, further than that, to the Secretary of the Department of Commerce and Labor. All that I am interested in is this, Mr. Chairman, for God's sake give us somebody with power to say on that certificate of inspection what that vessel shall carry.

I think that this distinction between "navigation" and "operation" does not mean anything at all. All that I am interested in is that when that vessel is being navigated, we shall have something certain. I want something so that if you go aboard and look at the certificate of inspection and you see the United States Government says so and so is the case, the ship has got such and such a bottom and such and such a crew and such and such an equipment, that is good for something, and that it is not a counterfeit as it is to-day. It is a farce, absolutely, as it is now. Many things in the different bills I care nothing for, if you will only give somebody some power in this good United States to say what shall be; that is all. That is all I am interested in.

Mr. GOULDEN. Then you have no objections at all against this bill as it now stands—House bill 16987?

Mr. Dow. Does it contain the number of hours that the crew shall work?

Mr. GOULDEN. It says in that connection: 

But should the master or owner desire to operate the vessel not more than twelve hours out of twenty-four in any one day, the local inspectors shall indorse on the certificate of inspection the number and class or kind of licensed officers and crew that are necessary for such reduced period of navigation, subject to appeal as above prescribed.

Mr. Dow. Personally I am against that: twelve hours. I hope I will live long enough to see eight hours. If the local inspectors want

to designate twenty hours or twenty-four hours, after consulting with the master or owner, I am in favor of leaving it all to the local inspectors, and not putting it in the bill at all.

Mr. GOULDEN. But do you not think there should be some provision for the direction of the local inspectors?

Mr. Dow. You here in Congress have not got the right to say what the hours should be in New York as well as out in Duluth, I do not believe Congress knows enough to do it.

Mr. GOULDEN. We think we do, as this question has been before this committee on my bills for four years.

Mr. Dow. I know you think so.

Mr. GOULDEN. That is what we are here for and I believe the members understand it.

Mr. Dow. I understand that. I simply give you my opinion on that.

Mr. Cox. Is that the only part of the bill that you are opposed to?

Mr. Dow. I think we have wasted two hours here on nothing. I do not believe the word "operation" cuts any figure. Give us the word "navigation" and we will take care of it. Cut it out altogether. I do not think it cuts any figure.

STATEMENT OF MR. EUGENE TYLER CHAMBERLAIN, COMMISSIONER OF NAVIGATION.

Mr. CHAMBERLAIN. I would like to talk about a minute and a half to each of the amendments that have been proposed, as I understand them. I gather from the tenor of what has been said that there is practically an agreement that the word "operated" on page 1, line 7, and the word "operation" at line 11, page 1, are at least unnecessary; certainly they are ambiguous, and anything that is ambiguous in a law of course makes trouble for those who have to obey it and considerable trouble for those who have to interpret and enforce it.

Mr. GOULDEN. But you have been enforcing the law with that same word in it, precisely. How did you do it?

Mr. CHAMBERLAIN. But I have been searching the statutes in the last few minutes, and I can not find the statute to which you refer.

Mr. GOULDEN. The Attorney-General will give it to you. It appears in the Revised Statutes.

Mr. CHAMBERLAIN. The penalty clause in section 4499 provides that if any vessel shall have been navigated, say, the penalty shall be \$500, and that is the general penalty clause, and I notice the word "navigated" is used entirely there.

Mr. GOULDEN. The word "operated" appears in the section given by General Uhler.

Mr. CHAMBERLAIN. The penalty of \$500 is given under section 4499, as I understand it, so that the word "navigate" is applied to the penalty clause; and assuming the penalty is in here, what is the penalty for "navigating?" It is in the air.

The second matter is the suggestion of Mr. Walker that on line 11 the words "other than a licensed officer" shall be omitted, and at the end of line 22 of the second page the words be inserted, "or in case of an insufficient number of licensed officers, to a penalty of \$500." This is primarily a difference in form rather than in structure. The language of the bill as it stands now, as it is printed and before you,

would prescribe a penalty of \$500 under section 4499 if the licensed officer were absent, if you were short of licensed officers. By leaving out the words "licensed officer" in line 11, and inserting in line 22 the specific penalty, of course you will gain somewhat in clearness of expression. Reading the bill offhand, a man might think that there was no penalty whatever in the absence of a licensed officer. You have to turn over to section 4499 to find the penalty that is prescribed. Possibly in the interest of clearness of diction it would be well to make that change.

The CHAIRMAN. That is, strike out the words "other than a licensed officer" in line 11 on page 2?

Mr. CHAMBERLAIN. With the understanding that at the end of line 22 there shall be inserted "or in case of an insufficient number of licensed officers, to a penalty of \$500." In other words, if you are short a licensed officer the penalty shall be \$500, and if you are short a coal passer or a deck hand, you are fined \$100. The change is in the interest of clearness of language and of expression, and it would doubtless meet the fear that Mr. Walker had as to invalidating his insurance policy, although I can not quite think that the law requires him to keep a certain number of licensed officers. If he was short of licensed officers that would not be the fact that the court would deal with in trying his insurance case. But that is neither here nor there.

It is proposed to strike out the sentence beginning on line 4 of page 2, as follows:

But should the master or owner desire to operate the vessel not more than twelve hours out of twenty-four in any one day, the local inspectors shall indorse on the certificate of inspection the number and class or kind of licensed officers and crew that are necessary for such reduced period of navigation, subject to appeal as above prescribed.

The desirability of some such language, as I am informed, is to meet this situation. The certificate of inspection would require a statement as to the particular number of different men, of firemen, engineers, and so forth, and it also contains the full particulars of the equipment of the vessel. Occasionally a vessel will want to make a change, that is, if her certificate requires a full crew, that is, the crew that she would require working day in and day out for a week, she may want to switch off temporarily on a twelve or an eight hour run. The design of this was to supply a supplementary certificate, something to be attached to the certificate and to cover special and temporary conditions. The difficulty in framing a statute to cover that is shown by the fact that as soon as this provision was printed Mr. Walker and his friends appeared with still another case. You have covered it for a twelve-hour run, but then Mr. Walker finds that occasionally he has passenger vessels which want to quit for the time being and to do freight work, when, of course, they do not require so many men. It seems to me very likely that the variations from the regular certificate which might occur from time to time would be so numerous that it would be pretty hard to express it in here. If the inspectors have the authority to fix the number of crew in the original certificate, and legislation is required to give them that authority as it is now, have they the right without a Congressional grant of authority to issue a supplementary certificate of this kind? I am disposed to believe that they would have that authority, but if there is any doubt on the subject the whole situation could be covered, possibly, by these words which I wrote a moment ago as a

substitute for the language beginning with the word "but" in line 4 down to the end of that paragraph:

The local inspectors may from time to time indorse on the certificate of inspection a supplementary statement of the complement of licensed officers and crew of a vessel necessary in their judgment for safe navigation under special conditions.

Now, that is then subject to appeal, as above prescribed.

Mr. COX. Does not your amendment which you are offering leave it absolutely and solely discretionary with those men to make that indorsement?

Mr. CHAMBERLAIN. Yes.

Mr. COX. Do you think that all this matter should be confined to their discretionary power?

Mr. CHAMBERLAIN. Subject to appeal. I do not know of any other way to do.

Mr. COX. Do you not think that the language that is already in the bill is better language than yours?

Mr. CHAMBERLAIN. No, sir; if you will pardon me, I do not, because that only provides for one class. Now, it may well be that you have a twelve-hour boat that wants to work twenty-four hours.

Mr. COX. The only class that is provided for in the bill, is not that the class that wants to operate less than twelve hours?

Mr. CHAMBERLAIN. Yes.

Mr. COX. Now, if you want to operate less than twelve hours all you have got to do is to apply to the local inspectors under this act.

Mr. CHAMBERLAIN. But suppose you have a vessel on a twelve-hour run that wants to run for a week?

Mr. COX. That does not take very much time to do that, does it?

Mr. CHAMBERLAIN. It requires a new certificate, though. It does not take very much time to do one or the other.

Mr. GOULDEN. Would he not have a regular certificate for that?

Mr. CHAMBERLAIN. He would have a regular certificate.

Mr. GOULDEN. This provides where a vessel desires to run twelve hours or less.

Mr. COX. All he has got to do is to apply for a certificate to that effect.

Mr. CHAMBERLAIN. Yes; you are quite right about that. But here is this second proposition about the transfer of a passenger vessel temporarily to a freight vessel. My idea is that the power vested in the local inspector in a matter of this kind should be as broad as possible, because the local inspectors are the only competent authorities to pass on these questions. They are right there, and see what is going on, and know what is needed. Now, if they are to be trusted in the first place with fixing the number of the crew, if you trust them for fixing the number of officers and crew for a vessel running twenty-four hours a day, why can not you trust them in the case of a vessel that is going to run more than twenty-four hours. It seems to me, if you will allow me to use the expression, it is straining at a gnat and swallowing a camel. The very first words of this bill give them the very broadest power. They may say that a vessel that requires 48 men is adequately manned if she has only 12 men. You have trusted them to that extent. You put implicit confidence in them in the beginning. Now, here is one detail; you say you are afraid they will not be right. That is the way it strikes me, offhand.

Mr. UHLER. Do you not think that is quite well covered by section 4417? Under section 4417 they have the power to certificate a vessel for any service which may be covered.

Mr. CHAMBERLAIN. Then is there any necessity for these words here?

Mr. UHLER. I said in my remarks that I did not think there was any necessity for them.

Mr. CHAMBERLAIN. I was backing up your proposition to meet the position of those who may say that some legislation on that point is necessary. If any such legislation is regarded as necessary, then it should be made as broad in this part as it is in the original proposition.

Mr. SPIGHT. Would this clause you speak of here now do any harm if it is left in the bill?

Mr. CHAMBERLAIN. There is only this; when you grant a specific power for a specific purpose, do you not cut out the grant of other powers by implication?

Mr. SPIGHT. This applies only where it is to cover a period of not more than twelve hours.

Mr. CHAMBERLAIN. You can only give one kind of these supplementary certificates. Could the board under other conditions grant that extension of time? Do I make myself clear?

Mr. SPIGHT. Mr. Chairman, I think you are excluding other things that ought to be in, and I think the general language would work a little better.

Mr. STURGISS. Have not these inspectors authority to modify from time to time the licenses?

Mr. CHAMBERLAIN. Yes, sir.

Mr. STURGISS. You are simply attempting to do this in a particular case where you have already the general authority. It seems to me that might well be left out.

Mr. GOULDEN. I was afraid that it would not cover it. I was afraid that the general statute would not cover that particular point. I simply wanted to strengthen the powers of the inspectors.

STATEMENT OF MR. HARVEY J. GOULDER.

Mr. GOULDER. I have spoken on this subject so often to the committee that I fear that I have really worn myself out.

The CHAIRMAN. You have not worn the committee out yet.

Mr. GOULDER. I think the good feature of all the hearings we have had is that they reveal the excellence of our friend Colonel Goulden's bill, which is nearly right, with one question of cleavage that I spoke of at the last meeting of the committee. I think that the words "operate," "operated," and "operation," wherever they occur, should go out, and I should think that the Department would, for the reasons I suggested in inquiring of General Uhler, want them to go out, since they would have an aggregation of cases which would be open to complaint; it would open to lawyers more or less acquainted with these things the opportunity to come in and raise questions. What you want, of course, is that there shall be, to whatever extent the Congress thinks it is necessary to go, the regulation by statute to reach the safety of the navigation of the steam vessel, and you have got to take this legislation with cognate legislation. You provide about the boilers, and the steamers, and in a great variety of

ways, perhaps more than is necessary, as I sometimes think, and then the general excellence and seaworthiness of the ship to carry life and property, including a crew.

Now, to go into the history of the law for just one minute. It has been the law, under severe penalty, that no steam vessel should move in navigation, that is, move under her own power under the direction of those who do navigate the ship, except in charge of licensed officers, one in charge of the outer navigation and one in charge of the machinery. Now, that has received interpretation. I do not think you need a particle of law concerning the freight ship. The freight ship can not move without the licensed officers except she incurs a penalty of \$500. I never have known of any complaint, I am frank to say, and I have been for thirty years very closely connected with this business, and I think I know every angle of trouble about a ship, from total destruction to the libeling for the wages of a fireman or deck hand, and I think I have had to do it all, and I have never seen any reason why the freight ship should be included. But passing that for a moment, for many years you did have section 4463, which did provide that no ship carrying passengers—which was amended so as to read “no ship carrying passengers for hire”—should leave port without the proper number of officers and crew; that is, it was very much this bill without the twelve-hour qualification, and applied only to passenger ships.

Senate Document No. 113, Fifty-ninth Congress, first session, submitted by Senator Frye, is a report of Mr. Metcalf, the then Secretary of the Department of Commerce and Labor. This was filed by Senator Frye. At that time there was nothing said—I never heard a word said—about including other than passenger ships, and the whole basis was this: If your family go down to a passenger ship they expect that that ship is properly manned. They have absolutely no means of finding out anything about it. They commit themselves to that ship, relying upon her safety, and they trust the Government, that the proper agencies have seen to it properly and industriously from time to time that she is properly equipped and in a proper state of repair, and also that she has a proper crew. Now came along a court which said in reference to that that the board of supervising inspectors could not redelegate that authority to the local inspectors, and I have always had the opinion, and I have that opinion now, with all respect to any member of the committee, that there is such a line of differentiation. This provision about crewing a passenger ship is not necessary for the crew, it is for the passengers who do not know anything about it, do not know anything about the crew, would not know what a crew should be if they were asked; if they had the determination of it they would not know, and that crew should be there to take care of that ship and to take care of the passengers in case of any difficulty. In the other employments of freight and other ships, where there is nobody but the crew on board, in my best judgment that would be well left to the men themselves, under the general provision. There must be licensed officers to take care of the navigation of the ship, the proper navigation of the ship, in all things of direction, as to the course and the observation of the rules of navigation, the rules of the road at sea to avoid collisions, and so forth, and it should be left with the men who choose to follow that avocation to make their own selection of their employments,

to go on such ship as they choose to go on, know the number of crew, know the conditions of service, and having the master a licensed officer, a Government officer, they settle these questions.

Mr. SPIGHT. Is there not some duty owing, though, even to the crew of a vessel for protection?

Mr. GOULDER. There is the duty owing to the crew of the vessel, such as there is owing an employee in a factory, to have safe machinery, proper machinery. Now, you do that with your steamship. She can not go at all, she can not get her certificate, until she has been certified by a competent—or what should be and in almost every case is a competent—Government authority as being fit and competent and seaworthy and safe.

As to the question of hours and that sort of thing, it seems to me that would best be left with the employer and the employee.

Mr. SPIGHT. If I understand you, you are opposing the application of this proposed law to freight vessels?

Mr. GOULDER. To anything but passenger ships.

Mr. SPIGHT. Leaving out any question of the duty of protection of the crew themselves, is there not great danger in the overworking of the crew of a freight vessel that passenger ships may be endangered, as was stated by General Uhler, a while ago?

Mr. GOULDER. I never heard of a case of that kind, except the one stated by General Uhler.

Mr. SPIGHT. Can you not see how such cases could very readily happen?

Mr. GOULDER. I can see how that might happen, but it is such a sporadic opportunity for a case that I do not think it is necessary to have a law of Congress on the subject.

Mr. STURGISS. In railway operation many of our accidents have been brought about by overworked freight crews bringing their trains in collision with passenger trains.

Mr. GOULDER. Yes. In relation to that, in many places they have fixed the hours of consecutive service.

Mr. ALEXANDER. On freight vessels?

Mr. GOULDER. No, on freight trains. I have never known of any other legislation, either passed or proposed, for regulating the length of time that a train should run, or anything of that kind; but the continuous service of the employees has been legislated upon. Taking the case of tugs and other boats, I know in the case of a large line of tugs that the time of actual service out of twenty-four hours was not over eight hours on the average for an entire concern, on a large number of tugs, and that was not necessarily continuous. Where they are going outside, where they are going on a voyage that is going to last any time, then they do, of course, carry double crews. Now, I will say this in regard to that matter; I do not care to argue further about the freight ship than to say that out of my experience I can see no necessity for that. I can not bring myself to conceive of anything but an uttermost possibility; I say that in an active service in the business for thirty years that has never come to my notice in any manner, either in my experience or my observation. I can not but give my earnest opinion that that is not necessary.

Mr. GOULDEN. Do you see any special objection to it; and if so, what?

Mr. GOULDER. The objection to making those things matter of law is the avidity, wherever there is such a law, of persons seizing upon that law as some absolute and arbitrary thing and taking advantage of it. It might be said that if you could make this reciprocal in any way, that would be another thing, but of course you can not make it reciprocal; you can not compel men to serve or compel men to go on board. There are certain provisions in reference to licensed officers, that they can not, under certain conditions, refuse to serve, but simply under penalty of that being regarded as misconduct, inasmuch as they have a license from the Government and are bound to serve.

Mr. GOULDEN. May I interrupt you right there and say that we have had a number of instances in New York Harbor as between tugboats and ferryboats and other vessels? Only a few years ago one of the Pennsylvania ferryboats was sunk in the East River by a tugboat running into it.

Mr. GOULDER. Of course you can never eliminate accidents, and you can license all the men you please and make all the rules that can be conceived of for the regulation of human conduct, but you never will eliminate the element of accident in so crowded a harbor as New York, where they are going zigzag and crisscross in such a manner that it is beyond the power of man to eliminate that.

Mr. GOULDEN. Do you not think, however, that it is our duty as lawmakers to throw all the safeguards possible around matters of this kind? There is a provision where crews are overworked and where the boats are not properly manned. Is it not our duty to throw safeguards around all these matters so as to prevent accidents?

Mr. GOULDER. No; I do not agree with that idea. I would, as a legislator, try to do everything possible. I would endeavor, in honesty of purpose, upon fair investigation of a subject, to do what in my judgment was necessary, and I would not permit my mind to be controlled or governed by remote possibilities; therefore I would say that I would not, as a legislator, put laws on the statute books to regulate or to affect human conduct and human property to the extent of utmost possibilities. I would put them so far as in my judgment seemed necessary, and I would stop there, and I do not think it is necessary to put this in so far as that is concerned.

Mr. GOULDEN. Would you not include it rather among probabilities instead of possibilities?

Mr. GOULDER. I can not see the basis for probability in this when I say that I have never heard of such circumstances. I have said all that I care to about that, because I have given my reasons.

Mr. UHLER. With your long experience in marine jurisprudence, and so on, is it not a fact that more than 90 per cent of marine disasters are due to collisions?

Mr. GOULDER. No; but a large proportion. A large proportion of disasters are due to collisions, and I will tell you how they arise. I think a majority of collisions on the water arise from an officer, as the common thing is, misspeeding himself, or giving an order to port when he means to say starboard, or from a man at the helm who has been there for some time with nothing to do specially suddenly getting an order and shoving his wheel the wrong way. I believe that they occur largely from that. Then they occur from licensed officers neglecting the rules applicable to the navigation of ships in fog.

They run too fast. The rules are so plain that, if observed by both parties, they could not have a collision, and yet those collisions do occur in fog; the majority of collisions occur in fog. In those cases it arises from men getting indifferent to the duty, the exact duty, not being on the qui vive all the time, just as a man sprains his ankle getting off of a street car. He knows how to get off of a street car, but from long habit getting off and on cars he happens to get a little careless, and he is precipitate, and down he goes.

Now, I have said all that I care to say about that. In reference to this bill, I take it that this committee will not hold onto the word "operate" when objections appear of which every mind must be conscious.

Mr. ALEXANDER. I think it is agreed that that should go out. There did not seem to be any objection to it.

Mr. GOULDER. Yes; I think so. If the bill is to remain and should apply to freight ships, which I hope will be done, then I think this language on page 2, lines 4 to 9, should go out. If it remains, there should be the word "navigate." I do not agree with Mr. Chamberlain, although I would almost always defer to his opinion on these matters. I do not think that you need to specify instances of changing your certificate where you have got a general authority to fix a crew. That means a crew of any boat, I should think, and if you have got a boat that is a passenger ship, and you are going to stop using her as a passenger boat and use her as a freight boat, she would have a certificate accordingly, and I do not see why the inspectors can not change it from time to time.

Mr. SPIGHT. That is, issue a new certificate or indorse it on the old one?

Mr. GOULDER. Yes; I do not see why that would not cover it. Then I think the penalty of \$500 is perhaps too strong a penalty. Then if Mr. Goulden is going to prepare the bill again, I think you ought to have in it some appropriate language such as you have in another part of the statute—I do not know that it is necessary—that this requirement shall not be changed in one district or in another unless there is a change of conditions.

STATEMENT OF MR. WILLIAM LIVINGSTON, OF DETROIT, MICH., PRESIDENT OF THE LAKE CARRIERS' ASSOCIATION.

Mr. LIVINGSTON. I shall not detain you more than three or four minutes at the outside. This matter has been covered pretty thoroughly. I want to say by way of preface that anything I say is confined exclusively to the Great Lakes. That has been my life work; all my experience has been on the Great Lakes, and therefore I do not pretend to be familiar with anything else, nor am I competent to talk about conditions on the coast, because all my experience has been on the Lakes, except as I have happened to be crossing the ocean, looking from the vessel that I happened to be on.

This Goulden bill on the whole, I think, is a very fair bill, and I have not very much objection to it. We, as an association, were opposed to the word "operate." That has been discussed, and it is unnecessary to take the time of the committee, for the reasons that have been given. The bill has been amended somewhat since I first

saw it, and I want just to say this. Lines 10 to 15 on page 2 of the bill as I saw it, or rather of the proposed portion of the bill as it was before it was amended, was somewhat different from that, and on that I want to say a word. We should dislike exceedingly to have that changed in any way, because we are subject to certain conditions at least on our Great Lakes that would make it a very serious matter for the ship and for the owners and for the master as far as the manning goes. In connection with that I may add this by way of explanation, because it may seem a trifle irrelevant. We make in our association, or have for a number of years, contracts with different labor unions. It does not follow that we will always make them, but we have done so for a number of years gone by, and as far as the manning of the ships is concerned, and in relation to the crews, the contracts which we make with these labor unions practically settle the question as to the number of men to be carried; so that this, so far as the crew is concerned, would not at the present time in any way particularly affect us.

But that, of course, is simply a temporary matter; there is no telling how long that may be permanent. But independent of that and outside of that, so far as our trade is concerned, we feel on that principle that it makes no possible difference what a thing costs, provided it produces results. We put it aboard and we ask no questions if it produces the results. We of course take all these different propositions up carefully and test them out carefully, whether they are automatic devices or any other kind of devices. If one of those devices will produce results, the question of cost cuts no figure with us, but it goes aboard of the boat. I am frank to say to you that, having traveled around the world a good deal, I think the boats on the Great Lakes are as well equipped as any others anywhere. There are no better-equipped boats; no boats that have more safety appliances. I will go just a trifle further than that and say that there are no boats in the world that have more labor-saving and life-saving equipment and every other equipment that it is possible for a boat to have that will contribute to the safety of the people and the safety of navigation and everything else that is to the best interests of the ship.

I spoke particularly in reference to these questions for this reason. I will go just a step further than that. You take it where firemen are concerned. We realize that a certain number of crew is absolutely necessary for us to get the best results. If we were to put an insufficient number of firemen aboard, and the steam should run down, so that we could not carry the number of pounds of steam, for instance, that the Government allows us to carry, the result would be that the boat would make slower time and we would make fewer trips in the course of a season, and that would cut down her earning capacity, and we as owners would lose to that extent. As we have 600 steamers in our association, we work with these matters very closely, and our experience has been, of course, that to get the best results we want an absolutely sufficient crew for all purposes that are necessary to navigate the ship both in port and out of port. We have been bothered a great deal with this, and what I say about the firemen applies to the other men; and also, notwithstanding the fact that we are constantly putting on labor-saving appliances and making the work easier, we have not reduced the number of men required for the boat.

As far as the Great Lakes are concerned, and I can not say beyond

that, I think we got along very well before this was proposed; but I want to say right here in connection with that, that as long as the power has to be lodged in the hands of some one to say what these crews shall or shall not be, we very much prefer that it should be left in the hands of the inspectors, subject to appeal, than to have it under anyone else. If you put a statute on the statute book that is a cast-iron statute, that rates everybody in a horizontal line, exactly alike, so that there can be no deviation from that, it will work the greatest hardship, because conditions that might be entirely satisfactory to us might be very unsatisfactory and a great hardship on the coast, and vice versa; and as General Uhler put it, and I think his remarks were very apropos, the inspectors to-day stand in about the same relation to a boat as a doctor does to his patient. They have to inspect these boats, and they know what is required of them, and while no human judgment is infallible, and there will be mistakes in all walks of life no matter where or what it will be, the liability to mistake and the possibility of hardship is very much less if this is left in the hands of the United States inspectors subject to appeal than if it is put anywhere else.

Relative to this section that I called your attention to, we have a great deal of trouble and have had in the past, not so much in regard to not putting a sufficient number of men aboard the boats, but in regard to not keeping them aboard after we get them. We start out from port and we ship a crew from any lake port, say, to Duluth, and we expect the master to put all these men on articles, to sign articles for the round trip. We have a great deal of difficulty, many times, if a boat happens to touch at an intermediate point. For instance, when we go through the "Soo" Canal we have to go through the locks, and it is a common thing to have a fireman or a deckhand to jump ashore. When we get to Duluth often a man will leave there with only half the trip performed. You gentlemen may say, "Yes; that man is a deserter, and you can have him arrested and you can put him in jail, and you can do divers and sundry things," all of which is true. You may also say, "You are under no obligation to pay him for the service he has rendered."

However, I have to live with this, as president of this association, and I have had a very long experience with it. The result is what? A man says, "Captain, I want my pay"—the deck hand, fireman, or whoever he may be. The master says to him: "Well, you have deserted the ship, and I will not pay you until you have made the round trip." He simply says: "Well, we will see about that, Captain." He goes to the walking delegate, as he used to be called, or as he is now called, the business agent of his union, and he comes down to the dock with him, and this agent or delegate says: "Captain, why will you not pay this man? This man wants his money, and I want him paid." The master says to him, "Why, he has signed articles for the round trip, and he has only completed a portion of the trip, and naturally I will not pay him; as a matter of fact, I should arrest him and put him in jail," or anything else he sees fit to say in that line. He refuses to pay the man. Then this business agent, what they used to call a walking delegate, says, "Captain, if you don't pay that man I will pull your crew ashore, and I will do it right now," and the Captain is between Scylla and Charybdis. He knows that if he does not pay this man his \$15 or \$20, or whatever the amount may be,

his ship will be held right there at the dock for twenty-four hours, or thirty-six hours, or whatever it may be. He fully realizes the iniquity and injustice of it, but at the same time the choice is between keeping a great big 10,000-ton ship there and standing the loss of having her lie at the dock and paying this man, and the cheapest of the two evils is to pay the man and stand the injustice and get the ship out. He has to lay aside the question of principle and pay the money. The master, moreover, is in a peculiar position, and feels that he might be criticised by his owner. There are times when we fight it out, but it is the exception when we do so and not the rule. Therefore I want to call particular attention to that section, because I want the committee to understand that when a boat starts on her cruise and she has a full complement of men and they have signed articles for the round trip, if a man deserts on the way, entirely beyond the control of the master, he finds that he can not get any redress. Take it at the Sault Ste. Marie, the men might leave the ship there and he might be a whole day there and not be able to find men then. It is the same in any of the ports. That is the reason that I specifically and particularly call your attention to that, that this should not be changed; that having shipped a full crew, and every man being put on articles for a round trip, and the master or owner of a vessel having shown his good faith and being not only willing but anxious to carry the full crew, if any of these men desert or leave the ship entirely beyond the control of the master and he comes into port shorthanded, no amendment should be allowed in any way by which they may be allowed to make a complaint against the vessel by which the master or owner can be fined because of not having crew enough. The master has given evidence of good faith, and is not only willing, but anxious, to keep his crew, but we have difficulty and they take advantage. I am not making an attack, you understand, on labor unions; I am merely stating the bare, bald facts as we find them right along during our season of navigation, and therefore I am particularly anxious as to this—and I have stated the facts just as they are—that nothing in the way of an amendment shall be put in to that effect that after the boat has shipped the full crew, and the men have signed the articles for a full round trip, and some of the men leave and it is impossible for the master to get other men, he should not be allowed to proceed on his voyage, providing he has anything within the bounds of reason and safety to proceed with. It is entirely satisfactory to us the way it is in the bill.

Mr. SPIGHT. Is not that difficulty covered on page 2 by the clause including lines 10 to 15?

Mr. LIVINGSTON. Yes, sir. The point I am making is that I do not want that section altered or amended. That is the point I am making. It is entirely satisfactory to us as it is now, because that gives a master some discretion in case he loses some of his crew, for the reasons I have stated.

Mr. FOULKROD. Do you ever have trouble to provide a competent crew to start out?

Mr. LIVINGSTON. Hardly ever, except in cases of strike. We have strikes occasionally.

Mr. FOULKROD. But ordinarily you can provide a competent crew?

Mr. LIVINGSTON. We think we can provide a satisfactory number of men, a competent crew. If we should happen to have a strike and

want to send a boat out in sporadic times like that, we might have difficulty.

Mr. SPIGHT. Do you make any specific objection to this bill except as to the use of the word "operate" or the word "operated?"

Mr. LIVINGSTON. I am opposed to the use of those words.

Mr. SPIGHT. Have you any objection especially to anything else except to the use of the words "operate," "operated," and "operation" where they occur in the bill?

Mr. LIVINGSTON. I say this emphatically, Mr. Spight, that I would very much prefer that the power to name the number of crew, and so forth, be left to the inspectors rather than to any other officers.

Mr. SPIGHT. As this bill provides?

Mr. LIVINGSTON. Yes, sir. I would prefer, for instance, where it specifies those twelve hours, where it provides about navigating the vessel for twelve hours, that that ought to be left to the inspectors because conditions will arise, if you make a hard and fast rule for a certain number of hours, whereby it might work a hardship; therefore I would much prefer that that be stricken out and that be left to the district inspectors.

Mr. GOULDER. Under the general power to fix the crew?

Mr. LIVINGSTON. Yes; under the general power to fix the crew.

Mr. SPIGHT. You would not want this limitation of twelve hours left in the bill?

Mr. LIVINGSTON. I would prefer to have that eliminated. I would prefer to have it so that the local inspectors, subject to appeal, of course, would have the right to determine, because there are so many emergencies that come up in the navigation business, and if you make a hard and fast rule, notwithstanding it is a very fair rule as a general proposition, there are cases which may come up in which it might work a very great hardship and be very serious, and as long as you are going to trust so much—which I am not objecting to—to the United States inspectors, it is just as proper and legitimate to trust them with this; and really they are the best persons to determine that, because they have an efficient knowledge of the situation.

Mr. SPIGHT. In other words, you want to clothe them with more discretion than this bill gives them?

Mr. LIVINGSTON. A little more on that point; yes, sir. I will say that as far as my experience of the Great Lakes goes, and that covers a lifetime, the inspectors have been fair men, men of good sound judgment who have taken a very fair, liberal view of the situation and the conditions existing. We do not always agree; but it does not follow that they are wrong, because we are just as apt to be unreasonable sometimes as they are. Human nature is fallible at the best of it, and there will be some difference of opinion.

Mr. FOULKROD. Is that the rule, that these men are competent in the different localities?

Mr. LIVINGSTON. Yes, sir.

Mr. FOULKROD. Some one who spoke a little while ago said or intimated that these inspectors were competent people.

Mr. LIVINGSTON. That has been our experience through a long period of years. You understand, you take two men and select them to fill the same position, and one man will have perhaps a little more ability and a little more brains than the other. Brains are not always equally distributed. If a man has not got brains you can not supply them. As a general proposition, these inspectors have been good, fair

men. You take General Uhler. If we had a man like General Uhler, I would be willing to go further. He has had experience on the coast and on the Great Lakes. But, unfortunately, men die, and men are removed, and therefore you might get a man who had knowledge of only one particular locality; he might know about the Lakes and not know about the coast, or vice versa.

Mr. FOULKROD. That was my judgment, that that was one part of the service where inspectors would be most competent.

Mr. LIVINGSTON. Yes, sir; the inspector is less likely to make mistakes than anyone else with whom you could lodge the power.

Mr. FOULKROD. The reason I asked the question was that I noticed you spoke of allowing him more discretionary powers than what the bill calls for.

Mr. LIVINGSTON. That is the way he put the question. That was in relation to hours. I was in favor of eliminating the twelve hours and leaving the number of hours discretionary with the inspector. Then he could apply that to the conditions that exist.

Mr. FOULKROD. You thoroughly believe that the inspector would be competent to regulate that to the satisfaction of all concerned?

Mr. LIVINGSTON. I think that he is the most competent man to do it. I think he has a better knowledge of the conditions, and that is the reason.

Mr. STURGISS. You have no fear that these local inspectors would not take into consideration the good faith with which you have manned your vessel and started your trip? If you met with such emergencies as you have described, you have no fear but what they would take that into consideration and have regard for the good faith with which you started out?

Mr. LIVINGSTON. Not at all. This clause as it is in the bill now is entirely satisfactory to us. We have the right to appeal, and if we happen to strike a sporadic case, we can take that up.

At 1.15 o'clock p. m. the committee adjourned.

COMMITTEE ON MERCHANT MARINE AND FISHERIES
HOUSE OF REPRESENTATIVES,
Thursday, February 27, 1908.

The committee met at 10.30 a. m., Hon. William S. Greene (chairman) presiding.

The CHAIRMAN. We have before us this morning, gentlemen, the bill introduced by Mr. Goulden, No. 16987, and there are a number of gentlemen here who wish to be heard on that bill.

Mr. GOULDEN. Before taking up that bill, Representative Ryan, of New York, is here, and would like to be heard on the bill introduced by him, No. 13463, and I should be glad if he be permitted to speak on it before taking up the other.

STATEMENT OF MR. WILLIAM H. RYAN, A REPRESENTATIVE IN CONGRESS FROM NEW YORK.

Mr. RYAN. The idea of introducing House bill No. 13463 was suggested to me by Mr. O'Connor, a resident of Buffalo, who is president of the Tugmen's Protective Association. On my arrival in Washington I consulted with the supervising inspector and also with members of this committee, who have had this matter under consideration for

some time, and as a result of that I introduced bill 13463, and its purpose, gentlemen of the committee, is to vest authority in the local inspectors to do away with complications that now exist in respect to specifying the crews that vessels shall carry. As to the general provisions of the bill and the reasons why certain things are contained in it, I will not enter into that part of it. Mr. O'Connor, of Buffalo, is here to-day, and would like to be heard, and will answer any questions any members of the committee may propound to him as to why this bill ought to be enacted into a law.

I would state that so far as I am personally concerned I do not care which bill you report, whether you report my bill or the bill introduced by Mr. Goulden. I have conferred with Mr. Goulden and Mr. Littlefield, and I am satisfied that the bill recently introduced by Mr. Goulden would be entirely satisfactory. There are some things in connection with the bill that go further than was originally proposed, but we have no objection to that. There is no desire to do anything except what will be agreeable to the committee, and there is no desire on my part to have my bill reported, the desire being to give the local inspectors power to do what we reasonably believe they ought to have power to do, and that is to specify the crews vessels should have; in other words, to enact into positive law what is now a rule of the Department.

I trust you will give Mr. O'Connor a hearing before your session is concluded.

MR. GOULDEN. I have a letter, which I would ask the clerk to read, from Mr. William Livingstone, president of the Lake Carriers' Association, and also a telegram from Mr. Harvey G. Goulder, which I ask to have read, and also that they both be printed in the record.

(Copy of letter and telegram not furnished.)

MR. GOULDEN. We are certainly under obligations to Mr. Livingstone for the book he speaks of.

I will now ask you to call upon Mr. Tilley, of Pittsburg.

STATEMENT OF J. FRANK TILLEY.

The CHAIRMAN. Whom do you represent?

MR. TILLEY. I represent the Pittsburg Coal Exchange.

The CHAIRMAN. What is your position?

MR. TILLEY. I am secretary of the Pittsburg Coal Exchange.

MR. Chairman and members of the committee, I speak on behalf of the Pittsburg Coal Exchange, of Pittsburg, Pa., and more particularly for the membership engaged in towing coal on the Monongahela, Ohio, and Mississippi rivers, representing some 150 stern-wheel towboats and about 6,000 undocumented craft, with a tonnage of about 4,000,000, and shipping on those rivers about 250,000,000 bushels of coal a year.

As a basis of a logical argument intended to show that we are entitled to especial privileges, I want to cite to you the conditions of the coal-towing trade, to show you that they are unique and are not to be duplicated in any other quarter of the globe, and I ask you to cast from your minds any idea you may have about navigation in order that I may approach you unprejudiced and tell you how navigation on those rivers is carried on, because it is so entirely different from any other form or species or method of navigation as to be in a class distinctly its own.

First, we have no deep-water navigation. We do not know what deep-water navigation means except in times of excessive floods. We are dependent upon fortuitous circumstances alone in the running of our boats; that is to say, we are dependent upon rains that produce flood stages in the river in order to float our craft to market.

Pittsburg is such a fortunate city that Providence, as you well know, caused two rivers to come together there, the Allegheny and the Monongahela, forming the Ohio. The coal-towing trade originates on the Monongahela River, and inasmuch as it is absolutely necessary that I shall explain to you the especial conditions of this coal-towing trade in order to establish the claim for special privileges, and also that this committee may know something about this coal-towing trade for future deliberation, I ask you to bear with me until I go into detail somewhat.

The Monongahela River and on its shores produces this coal towing tonnage known as the Pittsburg coal. Capt. E. G. Burnside, of Point Pleasant, W. Va., will appear before you and tell you about the coal-towing trade on the Kanawha River. Those two rivers alone provide this species of towing. On the Monongahela River there are fifty or sixty coal mines which have coal tipples standing out in the river, from which the coal is loaded into the coal-carrying vessels. These coal-carrying vessels are of three kinds. A coal boat, which is a lightly constructed craft, 175 feet long, 26 feet wide, with a depth of from 9 to 12 feet, and containing 25,000 bushels of coal. That is one coal boat, an individual craft. This boat is constructed of inch and a half hemlock sides, and is only intended to get a large quantity of coal to market with the least possible expense, and that is used in the long-distance towing trade; that is, from Pittsburg to points south of Louisville. Some coal is delivered in boats of course at Cincinnati, and some delivered at Louisville in this kind of boat, but the carrying of coal that is shipped in these largest coal carrying craft, known as the coal boats, carrying 1,000 tons, 25,000 bushels, is for the far southern trade on the Mississippi River and down to New Orleans. The second class of coal carrying craft is the barge. That is a craft 135 or 140 feet long, 26 feet wide, and it is very strongly constructed of about 3-inch timber or lumber. It carries about 532 tons, or 14,000 bushels, and this is a long-lived craft, and is used in the trade to Cincinnati, Louisville, and other points farther south. That kind of craft is intended to be unloaded at its destination and returned to Pittsburg, again and again.

Mr. DOUGLAS. How does this business come under the provisions of this bill? This bill provides that "vessels of the United States subject to the provisions of this title or to the inspection laws of the United States."

Mr. TILLEY. That is what we would like to know ourselves. But our boats are inspected. It will appear more plain to you the further I get along, I think, and I want to place this question fairly and fully before the committee. I want to make this thing clear. I want my familiarity with it to meet your unfamiliarity on common grounds.

Mr. FOULKROD. The provisions of this bill do not take in what you refer to, do they?

Mr. TILLEY. It takes it in; there is no question about that. We don't want it to take us in.

Mr. DOUGLAS. The original section provided that "any steamer carrying passengers."

The CHAIRMAN. The Supervising Inspector-General was here yesterday, and he said that they only had jurisdiction over steam vessels, and had nothing to do with sailing vessels; therefore nothing but a steam vessel would be subject to this title.

Mr. TILLEY. I have not reached towing boats yet.

Mr. ALEXANDER. Let us ask the gentleman to confine his remarks to towboats—deal with the towboat only. Just tell us where this bill that we are considering here affects your towboats.

Mr. TILLEY. There is a peculiarity about the towboats on the Ohio River. These boats must be accommodated in their construction to the conditions of navigation. First, we have no deep-water navigation; the boats are flat-bottomed boats, of very light draft, drawing from 2½ feet in the lightest draft boats to upward of 6½ feet and 7 feet in the larger ones. The small boat is the typical Monongahela River pool towboat. The Monongahela River is a slack-water stream, and has 15 locks and dams in it from Pittsburg to Fairmount, W. Va., which form what are called pools, and these pools are spoken of as Pool No. 1, 2, 3, and so on, up the river, and the towboats which operate upon that river are called pool boats. Those boats are about 125 tons in size, and their average pushing load is 3,000 tons. They take the loaded coal craft from the tipple in the river at the mine and tow it down into the Pittsburg Harbor.

Of course all those boats are obliged to carry licensed officers and carry crews, but the number of the crew differs with the work that the towboat has to do. We have a man on the towboat whom we call a deck hand. That man has nothing to do with the navigation of the vessel. He simply is working out on this tow, carrying the siphon pipe, or ropes, or chain, and looking after the coal-carrying craft, as you will understand. But the provisions of this bill say that the steamboat inspector shall write into the certificate of inspection of a boat the crew which the vessel must carry, and that includes these bargemen, and you will readily see that there are times when one of our boats is pushing forty pieces and she requires about 35 men out on these coal-carrying craft, and the next day she may cut off five or ten of these coal-carrying boats and then she does not need that number of these deck hands; but if you write into the certificate of inspection that she must carry 40 men aboard she can not proceed unless she has the 40 men, and then she does not need that 40 men any more than she needs an extra whistle.

The CHAIRMAN. Does not this bill provide that the local inspectors are to regulate the number of the crew?

Mr. TILLEY. The bill provides that.

Mr. DOUGLAS. And the crew of the vessel?

Mr. TILLEY. There is the question. If you do not say it includes the bargemen—

Mr. GOULDEN. It is not intended to include the bargemen.

The CHAIRMAN. If the master fails to carry the crew he originally had, he files with the local inspectors, within twelve hours after his arrival at port, a writing stating why he did not have that number of crew. I can not see anything in the bill that touches your case, because if he fails to have the required number, when he arrives, or within twelve hours from the time he completes his voyage, he reports to the local inspectors, showing why he only had so many men in his crew, and if the local inspectors decide against him he appeals to the

authorities higher up for a final determination as to whether he has violated the law or not.

Mr. DOUGLAS. It seems to me that the local inspectors should make a rule that the barges should have so many men.

The CHAIRMAN. I do not think it is intended to write into this bill any provision that would encumber the running of the vessel.

Mr. GOULDEN. I think that Mr. Tilley has misconstrued or misunderstood the meaning of the bill.

Mr. DOUGLAS. I would like to ask if you would not have confidence in the local inspector as to the writing in of the number of the crew?

Mr. TILLEY. Yes; but he might write in that we should have 40 deck hands.

Mr. GOULDEN. I think it applies only to steam craft carrying passengers.

Mr. TILLEY. General Uhler told me the other way.

Mr. GOULDEN. I think you have misunderstood General Uhler. The reason is that they are running passenger craft, and if they are not properly manned they endanger the lives of passengers and other boats carrying passengers.

Mr. TILLEY. The only men we need on our boats are two, the pilot and the engineer. These other men have nothing to do with the navigation of the boats at all. I would like if the committee—and it is a matter of much importance—I would like if they would let me explain a little bit of this coal-shipping business.

The CHAIRMAN. If you will, it seems to me it would be very much clearer. If you will suggest what you think, or if you will submit your views to this committee before they finally act, we will confer with the Bureau of Navigation and Supervising Inspector-General in order to get the bill in shape to be enacted into law, and if you will put that form before the committee reports we will give it consideration.

Mr. TILLEY. This business is of such a unique character that I do not think you gentlemen will understand it—

Mr. GOULDEN. I lived in the city of Pittsburg for fifteen years, and am familiar with that business. I have traveled up and down the river many times; have been on your coal barges and coal-towing steamers, and I think I know something about it in a general way.

Mr. TILLEY. I believe you do, if you have been in that section, and you also know that we may have only two days in a month in which we can ship coal, and the boats must go then or they do not go at all; sometimes for six months. May, June, July, August, September, October, and November, up to Thanksgiving, no coal at all may go.

The CHAIRMAN. The Commissioner of Navigation desires to be heard.

Mr. CHAMBERLAIN. I do not know very much about this matter, and I accept your criticisms, but there is one matter I would like to bring to your attention; that is, that this bill proposes in effect to make legal a practice which has been going on for a great many years. That is the object of it. Unless you have met these insuperable difficulties in the past in running vessels on the Ohio River, there is not going to be any subsequent difficulties about it, and it is merely making legal a practice that has been going on for years. That is all there is of it. If you have had these difficulties before, you can give cases and state instances, one after another, but if you have not

had them in the past I do not see how you are likely to have them in the future, because this is merely making into a statute what has been a regulation used by the local inspectors without authority. That is all there is of it, and I think your difficulties are largely imaginary.

Mr. TILLEY. This does not dispose of our objections, because section 4463 refers to vessels carrying passengers. We do not have a passenger nor any freight, and the company that owns the boat owns the coal-carrying craft and owns the mine and is engaged as much in a private enterprise as the farmer who raises his produce all over the country and carries it to market. We carry our own products, the man at the mine mines it, and we deliver it to the far-distant points down the river, and do not touch the public in any respect.

Mr. CHAMBERLAIN. It has been the practice of the inspectors all over, in the division of inspection, to insert the number of crew of these vessels, unless you have some exceptional arrangement with these inspectors, which would be extraordinary, and I think that if you will look at the inspection certificates of your steam vessels covering a period of years you will find in each one of them inserted a clause that there shall be one engineer or two engineers, and there shall be so many firemen, and so many deck hands, and this proposition is simply to make legal a practice that has been going on for years, and it ought not to be continued unless it is legalized practice. There never has been any difficulty in the past, so you should not anticipate any difficulty in the future.

Mr. TILLEY. We always have a crew, pilots, and engineers, but we do not want you to write in our certificates of inspection the number of bargemen we should carry, because we may temporarily need 40, when at other times we do not need 10.

The CHAIRMAN. Has it ever been written in any certificate you have had before?

Mr. TILLEY. Yes; it is the minimum crew. It is not the maximum number of deck hands.

The CHAIRMAN. I understand the local inspectors have been arguing, and it has been decided by the Supreme Court, that the local inspectors have no authority to act, and, therefore, if there is no authority to act they want to be given that authority.

Mr. FOULKROD. And this law is to give them authority to act. I understood you to state you had confidence in the local inspectors. And I fail to see where your trouble comes in, if you have confidence in your local inspector, and he is the man you are to deal with.

Mr. TILLEY. Because our necessities differ from day to day and from hour to hour, and the captain will be doing nothing but writing letters to the inspector, saying, "I have ten barges, and I dropped four barges at some place and didn't need that many men," and so on. We have a very real grievance against this bill, and if you will let me describe the operation of a coal tow leaving Pittsburg and taking it to market I can make it very plain. No large steamboat ever left Pittsburg with a maximum tow, for the reason that there are bridges with such narrow channel spans within 95 miles of Pittsburg, so another boat has to go along and take part of the tow, so that a boat capable of towing twenty or thirty pieces only takes from ten to seventeen of those pieces below Bellaire, Ohio, a distance of 100 miles, and another steamboat comes along with seven or eight pieces, and that steamboat that is sent along with the seven or eight pieces

does not need a maximum crew of deck hands, because the only men on whom the safety and delivery of the tow depends are the pilot and engineer. Of course there are two pilots and two engineers, and maybe a watchman on the boat, but the two men upon whom the safe delivery of the tow depends are the engineer and pilot. You will understand that we only have two or three hundred feet of the middle of the river, or of the channel, that we can navigate.

Now the best deck hands we get are those who live in the small country places, 25 or 30 or 60 miles from Pittsburg. You can not always ship a full crew for one of these big boats on leaving a Pittsburg wharf, and you don't need a full crew because you haven't got your full tow, although you have two boats whose combined crew is more than enough for one boat. We get down 30 miles and get young fellows from the farms, whose farm work is at a different time of the year from our towboat work—our towboat work begins about Thanksgiving and ends in May—and you leave the wharf with your licensed officers on the boat and enough crew to handle that boat until she gets down where we can pick up more deck hands. Then we pick up these other deck hands. Deck hands are frequently a very uncertain quantity. The ones we engage in the city, they sometimes have to be shipped when they are more than half incapacitated from acquaintance with John Barleycorn, and it may be six or eight hours before they become able-bodied seamen, so you see if the provisions of this bill mean what they say, we are technically liable if we cast loose from the Pittsburg wharf and start down the river without this maximum crew that is written in the certificate of inspection when we expect to get the remainder of the crew and the best men farther down.

Mr. GOULDEN. But there is no certainty about your picking up enough down along by Rochester or Beaver?

Mr. TILLEY. Oh, yes; all along, anywhere along the river. We get along to Bellaire, Ohio, and this small steamboat that is coming along with her seven to fifteen pieces turns those pieces over to a towboat and proceeds back to Pittsburg light, and then the only men she needs are the pilot to steer and the engineer to keep the boat going, and I challenge anybody to say that we need eleven or twelve men, deck hands, on that boat.

Mr. GOULDEN. You now do that under the existing circumstances?

Mr. TILLEY. Yes, sir.

Mr. GOULDEN. So this bill does not affect that a particle.

Mr. TILLEY. It would affect us if you say she has got to have it.

Mr. GOULDEN. But we leave it to the discretion entirely of the local inspector, as you are doing now, and you admit that you have no reason for complaint.

Mr. TILLEY. But you see we leave the port with enough men to manage the boat on the voyage. But suppose a vessel with a full tow carries twelve deck hands, and suppose the certificate says she shall have twelve deck hands, and suppose she only takes enough barges to require six deck hands. She can not cast loose from the wharf without having twelve men on board.

Mr. GOULDEN. I think you will find you can. You simply have to report upon your arrival at your destination or twelve hours thereafter.

Mr. TILLEY. Mr. Chamberlain asked for a particular instance. The steamboat *Ed Roberts* left Pittsburg with her full complement of

deck hands. When she got in a dangerous portion of the river above Cincinnati, Ohio, ten of those deck hands gathered on the fore-castle and said, "Unless our wages are increased from \$50 to \$60 a month we will quit the boat." The captain was in dire distress. When one of those boats casts loose from a wharf she can not land. There are 10-mile stretches on the Ohio River where a towboat can not land. When she casts loose she has got to go. The captain was in dire distress, and he endeavored to parley with them. They had signed articles to make the trip from Pittsburg and return. They said if you pay us off the next day we will deliver this tow for you at Cincinnati, only 8 miles farther down the river. The captain got to Cincinnati, and as they had signed articles to make the trip from Pittsburg and return, he refused to pay them. They were not entitled to these wages. They took us into a United States court, and the judge told us that the agreement with the captain, under duress, to grant these increased wages for taking the boat this 6 or 8 extra miles was a new agreement and abrogated the former contract, and we would have to pay them. Then when we get to Cincinnati these ten men quit us. We are without ten men. We have to ship the ten men, and when they get to their destination, if there is no other way, we put these ten men on the train and pay their fare back to Cincinnati. These are real grievances.

Mr. DOUGLAS. What judge was that and in what court?

Mr. TILLEY. That is in the western district of Pennsylvania. I think it was Judge Ewing, of Pittsburg.

Mr. COX. You had these grievances under the law already existing.

Mr. TILLEY. Yes, sir.

Mr. COX. What additional grievance do you contend this proposed amendment will occasion you?

Mr. TILLEY. These ten deck hands quitting us at Cincinnati, and we are merely able to pick up four more deck hands, and proceed to Louisville with the four. If it is written in the certificate of inspection that we have got to have ten——

Mr. COX. Does not the proposed bill say, if in the judgment of the inspector she is properly manned she can proceed?

Mr. TILLEY. I would say these things are happening hourly.

Mr. ALEXANDER. Have you ever had any difficulty with the inspector?

Mr. TILLEY. No.

Mr. DOUGLAS. Does not this section leave that out entirely, "if any such vessel is deprived of the services of any member of the crew other than a licensed officer without the consent, fault, or collusion of the master, owner, or any person interested in the vessel, the vessel may proceed on her voyage."

Mr. TILLEY. We proceed to the next paragraph, and it says, "if the vessel shall have been insufficiently manned in the judgment of the local inspectors the master shall be liable to a penalty."

Mr. DOUGLAS. If she started out sufficiently manned and two or three of the men were drowned on the way or deserted, the vessel does not have to tie up. It is left with the master to determine. If she starts out sufficiently manned, and the men kick on the way, she does not stop.

Mr. TILLEY. But that is closely connected with the section, "if any vessel is deprived of the services of any member of the crew."

Mr. COX. It looks to me as if it is in the discretion of the master.

Mr. TILLEY. These things are important matters, that ought to be fixed with more flexibility than there is in this act. For instance, you say "should the master or owner desire to operate the vessel not more than twelve hours out of twenty-four in any one day." Now I am willing to agree that with any vessel that can live on a schedule, that can have a steady navigation day after day, that all these requirements are entirely reasonable, but I tell you that for months at a time we can only leave Pittsburg two days out of an entire month, and this helping steamer that also is going a hundred miles down the river with part of the tow, she may be delayed by a fog up until 11 o'clock in the morning, which frequently happens, and the crew will be doing nothing, yet this bill says that she shall not be operated more than twelve hours out of the twenty-four.

Mr. ALEXANDER. That does not apply to this case at all. When I was a boy I lived in Cincinnati, and there was the Cincinnati and Maysville boat which made the trips daily, for instance. That is a local boat. This is intended for local boats, and if by stress of weather the work is more than twelve hours, that is to be taken into consideration.

Mr. TILLEY. But this makes it ironclad, if she is operated more than twelve hours.

Mr. GOULDEN. But you operate boats more than twelve hours.

Mr. TILLEY. These helping steamboats, running down the river a hundred miles, she will get a few miles from Pittsburg and break down, and she has been running twelve hours, and under the act we can not run the boats more than twelve hours, and what are we going to do under a necessity like that? I am not shading this; this is a real grievance.

Mr. ALEXANDER. No; it does not touch the bill at all. As far as the navigation from Pittsburg to Cincinnati or Louisville or New Orleans is concerned, it is not a twelve-hour trip; it is not a local trip.

Mr. TILLEY. But twelve hours in a day it says.

Mr. ALEXANDER. No. If you were navigating a boat from Pittsburg to some local point below and that was the extent of your navigation this law recognizes that for a trip. These inspectors will take that into consideration.

Mr. TILLEY. But this says that we shall not navigate more than twelve hours a day.

Mr. HUMPHREY. Do I understand you to contend that the provision you have here prohibits the operation of a vessel more than twelve hours in a day?

Mr. TILLEY. With a single crew; yes.

Mr. ALEXANDER. The people on the Lakes and ocean do not understand it that way.

Mr. GOULDEN. You differ from others who have been here before us.

Mr. TILLEY. I understand exactly how this bill will apply to our interests. "But should the master or owner desiring to operate the vessel not more than twelve hours out of twenty-four hours in any one day," that means with only a single crew.

Mr. HUMPHREY. Does it not provide that the local inspector may fix the number of crew sufficient? Suppose the owner is to operate his vessel only four hours in a day, then you do not have to have as many in your crew, and that very clause gives the local

inspector authority, if you are only going to operate your vessel a few hours in the day, to operate it with less men.

Mr. TILLEY. I can make my construction of it plain in a few words. We cast a boat loose from Pittsburg at 6 o'clock in the morning with a single crew. We go down the river as far as we judge we can and get back by 6 o'clock in the evening. That is a twelve hours' run. But suppose a fog settles down or something breaks that delays the boat one hour, and she can not get back until 7 o'clock that night. It is illegal to run her more than twelve hours with that single crew.

Mr. GOULDEN. No, I don't think so.

Mr. DOUGLAS. "But should the master only desire to operate the vessel not more than twelve hours," it does not penalize him if he runs over twelve hours. It simply gives you an opportunity to have a reduced crew.

Mr. ALEXANDER. That position was framed in the interest of the navigators of the boat.

Mr. TILLEY (replying to Mr. Douglas). By no means. How are we going to operate it thirteen hours if it says not more than twelve?

Mr. DOUGLAS. It does not say that you shall not operate more than twelve. It says "should the master only desire to operate the vessel not more than twelve." If he expresses that wish and desire, and then for some reason he is kept over the twelve hours, that does not penalize him.

Mr. TILLEY. If you can keep the steamboat inspectors from fining us, we will subside.

The CHAIRMAN. If you have an amendment to submit to the bill, I suggest that you submit it in writing, what you would like to have stricken out or what put in.

Mr. TILLEY. Before I close, will you let me call your attention to the unique character of our vessels as recognized by the regulations made by the supervising inspectors? It is found on page 73 of the general rules and regulations prescribed by the board of supervising inspectors, January, 1907, providing that stern-wheel boats engaged exclusively in the business of towing shall not be required to carry boats technically known as lifeboats or metallic boats. Under the act of Congress as it stands on the statute book, the board of supervising inspectors said we should carry some kind of metallic lifeboat, and we carried the case first to the local board of inspectors, then to the supervising inspector of the district, and the inspector-general, and all of them decided against us, and we finally appealed to the Secretary of Commerce and Labor, and he decided we did not have to do this, and I mention this to show the peculiar position we occupy.

The amendment I have to suggest is in line 7, after the words "United States"—and I follow the language of this rule from the board of supervising inspectors—line 7, page 1, after the words "United States," insert "except stern-wheel towboats engaged in towing exclusively." If it were not for the unique situation we are in, not a pound of freight on our boats, not a passenger on the boats, hauling our own stuff, on our own boats, owning everything, and owning the landings—

Mr. DOUGLAS. Have you ever tested in the courts the right of the United States to inspect your boats?

Mr. TILLEY. That has been talked about, but we have never had any friction.

The CHAIRMAN. Have you any other amendment?

Mr. TILLEY. No, sir; if that is all, I subside. I am telling you a real grievance, and I know how this bill will act upon us, and it will pretty nearly put us out of business.

Mr. HUMPHREY. I do not think you do know about it, because you and the committee do not understand the English language in the same way.

Mr. GOULDEN. Mr. Tilley is thoroughly sincere in what he says, but he is mistaken. Like very many good men, he occasionally makes a mistake.

STATEMENT OF E. A. BURNSIDE, OF POINT PLEASANT, W. VA.

Mr. BURNSIDE. I am a master pilot on tugboats. That is my profession on the Ohio and Kanawha rivers. I am representing also the Great Kanawha River Improvement Association.

The CHAIRMAN. Please make your statement as to what you desire and what amendment you want, what objections you have, and in what respect. Do you agree with Mr. Tilley in what he has said?

Mr. BURNSIDE. Yes; to a very considerable extent. I speak as a practical man, operating a tugboat, and having an interest in tugboats, and having been on the river all my lifetime. The conditions of course in towing coal are the same on our river as they are on his river. We have certain men known as deck hands that care for our coal, being classed as part of our crew to operate the tugboats, but they have no connection with the operation of the boat whatever. They are simply caring for the coal and the tow, carrying towlines, making landings, but as to the safety and the navigation of the boat they are not hired for that purpose, and we think the inspectors ought not to have the privilege of writing these men in our crew list.

The CHAIRMAN. Have they ever so classified them?

Mr. BURNSIDE. Yes; always. Every time we get a certificate of inspection, the inspector writes down the number of the crew he thinks we should have, double crew, and the number running twelve hours, single crew.

Mr. COX. Has it been your policy to follow the certificate of the inspector?

Mr. BURNSIDE. We have carried more men than he puts down as a general thing.

Mr. GOULDEN. Why do you do that?

Mr. BURNSIDE. He asks the number we think we ought to have, and he puts down the number we say.

Mr. COX. As this has been your policy heretofore, and as you have endeavored to pursue and follow out that line of policy, what additional burden will this proposed amendment impose upon you that is not now on you?

Mr. BURNSIDE. Because as we see it this bill provides that we must not cast our lines loose until we have that crew aboard the boat. It is very often the case we can not pick up a full crew, or a crew may strike, or we may not have as many men; we can leave safely, we can pick up the men down the river.

Mr. DOUGLAS. If the inspector asked you how many men you ought to have, and if you thought you ought to have twelve, you say eight or nine, and whatever you said he would put in?

Mr. BURNSIDE. Yes; generally.

Mr. DOUGLAS. Then there is no reason to suppose he will impose any additional hardships on you?

Mr. BURNSIDE. I do not think he would, because he is a practical man; but if a new man came in he might do something different.

The CHAIRMAN. It is found that they have not the authority. This bill gives them the authority. What have you to object to in the bill?

Mr. BURNSIDE. I think you gentlemen mean all right and intend to do all right, but the conditions are peculiar in our line of business, and I do not think you understand it as well as we do.

Mr. FOULKROD. The inspector understands your line of business?

Mr. BURNSIDE. The inspector, Mr. Clark, is what we call a passenger-boat pilot.

Mr. FOULKROD. You have confidence in him?

Mr. BURNSIDE. I believe he will do all right, as near as he can.

Mr. GOULDEN. Have you any other suggestion?

Mr. BURNSIDE. We want that matter of the deck crew, who look after the management of the tow, left out, so that we can be free to take as many or few men as we want, depending upon the size of our tow.

Mr. Clark understands that part of our business fully. We carry six men single crew, or twelve men double crew. We want to go some place without any tow whatever, to repair, for instance, or to some other point to pick up a tow; we may start on our way; we don't need six men or twelve men to take that boat through, and we don't like to go to the expense of having the men on the boat until we get to that point, but according to this bill before we start out we must have a full crew, before we leave.

The CHAIRMAN. If you do not have, you report to the inspector why you did not have it.

Mr. BURNSIDE. We would be reporting to the inspector about all the while.

Mr. COX. What amendment do you propose to this bill that we now have here that would save your rights?

Mr. BURNSIDE. The amendment Mr. Tilley suggested was the same that Mr. Uhler—

Mr. COX. Do you propose any other amendment? In your judgment, if the amendment offered by Mr. Tilley was passed it would absolutely eliminate you from that bill?

Mr. BURNSIDE. No, no; we don't want to be eliminated from the law.

Mr. JOHN H. PRUITT. I would like to ask the gentleman a question. Have you ever in your experience found any local inspector who arbitrarily designated the number of crew you should carry on your vessels?

Mr. BURNSIDE. No; but this same inspector we have now understands fully, and he has been the only one who has put on our certificates the number of the crew.

Mr. PRUITT. Has it not been the custom that the local inspector asked you how many masters, pilots, quartermasters—

Mr. BURNSIDE. We don't have quartermasters; we have pilots and what we call cub pilots.

Mr. PRUITT. Haven't you designated the crew yourself?

Mr. BURNSIDE. Yes; to some extent.

Mr. LUTHER B. DOW. I would like to make one single explanation, that the conditions in New York are exactly the same, and we understand thoroughly that this means only the officers and crew necessary to navigate a vessel.

Mr. BURNSIDE. That is all right if it means that.

Mr. TILLEY. Mr. Dow and I agree on this point, but I went from Mr. Dow to General Uhler and I said, "What about these bargemen on the boats?" He says, "They are your deck hands."

Mr. BURNSIDE. I want to speak about this twelve-hour business, and my remarks are on the line of Mr. Tilley's. As I understand it, that bill prohibits us from running our boats more than twelve hours.

Mr. GOULDEN. You are wrong.

Mr. BURNSIDE. With us, if we have a crew of men, and we want to be out thirteen or fourteen hours, the men agree to it and we pay them for their extra time.

The CHAIRMAN. Is there anything further?

Mr. BURNSIDE. That is all.

Mr. GOULDEN. I would like to call on Mr. T. V. O'Connor, the president of the Licensed Tugmen's Protective Association of Buffalo, N. Y.

**STATEMENT OF MR. T. V. O'CONNOR, PRESIDENT OF THE
LICENSED TUGMEN'S PROTECTIVE ASSOCIATION.**

Mr. O'CONNOR. I am president of the Licensed Tugmen's Protective Association. Mr. President, I suppose this question has been hashed and rehashed here and if I should repeat some things that have been said by others I will have to be excused, not knowing what has been said. The gentleman over there [Mr. Burnside] said he was a practical man. So am I. I started from the fire hold of the boat, went from there to the engine room, and from the engine room to the pilot house, and then to the master's position, so that I have been at both ends and in the middle.

For years, Mr. Chairman, it has been the aim of the inspectors to try and name a sufficient crew to operate a vessel with safety to the lives of the passengers and crew. In some instances they have been successful. Some companies have carried out the rule as laid down by the inspectors, Rule 9. Other companies have simply given the inspectors the laugh, going on the decision rendered by the Supreme Court, also by the decision rendered by Attorney-General Bonaparte, that the inspectors had no authority under existing law.

Mr. ALEXANDER. The Supreme Court of the United States has never decided that. It was by some circuit or district court.

Mr. O'CONNOR. That is true. I believe it was in Boston.

Mr. GOULDEN. It was at Norfolk, Va.

Mr. O'CONNOR. That rule, I suppose, has been read to you a dozen times since your hearing started. It says the local inspector in issuing a certificate shall certify therein and thereon the number and class and kind of licensed officers and crew to navigate the vessel with safety, etc. Now the inspector-general, at least in his two last reports, has recommended a change in section 4463, and I take it for granted, after having talked with him, that the object in recommendation was that the authority would be placed with his department to name the number of a sufficient crew to operate those vessels with safety in regard to the lives of the passengers and crew.

Now, if I understand things right, some of the representatives of steamboats or steamboat lines have argued that the captain is the one that ought to name the crew. Gentlemen, that sounds well in theory, but it has not been a good practice. The captain has, in most cases, had to say, for years and years, what the crew of the boat would be. The result has been, as you all know, if you read the newspapers, disaster to life and property. But in most cases if the owner says, "We ought to carry so many on your boat," it don't matter what the inspector says. According to the rule, and the way it is now, when the owner says, "Captain, you are to carry so many in your crew on your boat," the captain will carry that many in the crew or look for a position some place else. That is the practical side of the question. If they say, "You will operate eighteen or twenty hours with one engineer, or one captain," as our friend from Pittsburg seems to want to have them, the captain, Mr. Chairman, of that boat will do so or look for a position some place else. And you heard what Mr. Dow said about the *Slocum*. The owner tells the captain how many men he will carry. The inspection certificate calls for the number of men. If the captain followed the inspector's certificate, he would lose his position. He must carry the crew that the owner says he must, that is the fact of the matter; that is, without this proposed law, the way it is now. The result of all this is that one man has got to go and serve time in State prison, through following the orders of his owner.

Mr. Dow. Will the gentleman allow me to interrupt him? I don't want you to misquote me. There is one little misstatement you made.

Mr. O'CONNOR. I do not wish to make any misstatement.

Mr. Dow. I simply want to correct you in one statement. My claim was, for the association I represent, that the local inspectors had no authority in the *Slocum* case. They had never provided for deck or licensed officers, and for not having them, our claim is that the steamer was burned and lives lost and the captain, being powerless in every particular, this morning starts his sentence in Sing Sing for ten years.

Mr. GOULDEN. I desire to make a statement. Lunberg, the inspector of hulls of the district of New York, was tried three times, and each time the jury failed to agree, largely from the fact that there was not any law giving him the necessary authority.

Mr. O'CONNOR. I was just about to correct myself, that I was not very well posted on coastwise affairs. In the Lake district the inspectors have stated how many men a crew should consist of. I was going to state whether it was done in the coastwise trade I do not know, because there is a difference, even in the Lake districts. In the Chicago district they did not do it; in the Buffalo and Detroit districts they did it.

Mr. DOUGLAS. It was not a matter of law, but it was a matter of whim.

Mr. O'CONNOR. Yes. The operation of boats on the Lakes is a peculiar thing, as the gentleman from Pittsburg says, the master of the boats does not operate them. The truth of the matter is, the master of a boat on the Lakes, especially of a freight steamer, is like that of the conductor on that street car now going by. He does just as the office tells him, nothing more nor less. He hires just as many

in the crew as the office gives him permission to carry. In order to get certain crews on boats there has had to be strikes among the organizations up there. There has had to be strikes in order to get a sufficient number of men in certain departments. That is the only way that those departments were able to get men enough to navigate vessels.

Mr. COX. Have you any amendment to propose to the bill now under consideration?

Mr. O'CONNOR. No. I want an understanding of it.

Mr. COX. Do you approve of the bill as it is now prepared?

Mr. O'CONNOR. In the way it has been stated this morning. The gentleman from Pittsburg said it would stop his boats from operating over twelve hours. Mr. Livingstone asked that from line 4 to line 9 be stricken out. The bill would be of absolutely no use with that stricken out.

Mr. GOULDEN. Do you believe that twelve hours should remain?

Mr. O'CONNOR. I certainly do believe so.

Mr. COX. If you have any suggestions in the way of amendment to the proposed bill, will you give them and your reasons for them.

Mr. DOUGLAS. He was trying to argue against Mr. Livingstone's suggestion.

Mr. COX. I would like to hear your reason.

Mr. O'CONNOR. My amendment was to the bill as presented before Mr. Livingstone ran the blue pencil through it here. The bill was all right as far as that section was concerned.

Mr. GOULDEN. About the first page, what is your judgment of that section there?

Mr. O'CONNOR. I believe the word "operated" ought to remain.

Mr. GOULDEN. Why do you want it to remain?

Mr. O'CONNOR. There is one-fifth of the total class of the United States that they have had for years under the word "navigate." I wrote Mr. Dumont to give me his definition of the word "navigate," to find out what his idea was on the rule they were trying to enforce, and he wrote me back his definition was that if a boat operated ten hours, stopped an hour, that she might start again and operate twelve hours more with the same crew.

Mr. COX. You do not believe that that would be the correct and proper policy?

Mr. O'CONNOR. I do not think it would be. I believe that there is no man who is fit to do that. In New York there might be. And in this class of business this gentleman mentions at the pools in Pittsburg—I happened to be down there last fall. He has boats there operating continuously. There are boats there operated continuously with a single crew for eighteen hours. He admits that actually a crew of ten or twelve men operate those barges. Gentlemen, there is no man living, and I will guarantee that Mr. Uhler or any other honorable man will say that there is no man qualified or competent to operate a boiler during eighteen hours out of twenty-four.

Mr. COX. It is too much for human endurance.

Mr. O'CONNOR. It is too much for human endurance. Everybody knows how easily an accident can arise with a boiler—low water, over pressure of steam, and a man working eighteen hours is not competent to do his work.

Mr. COX. In the same connection do you propose both words in this proposed bill, "operated" and "navigated," should remain?

Mr. O'CONNOR. Yes, sir. The word "operate," as I said before—navigate would mean when operated longer; that is the way it has been interpreted. "Operate" would cover both, like in New York Harbor, shifting from one dock to another, ferryboats, tying up for a while and going off again, ferryboats going on a regular rate of a boat every ten minutes, that would be operating, and I don't know as some of our attorney friends would consider that not navigating.

Mr. GOULDEN. Some of the courts might construe it that way, you think?

Mr. O'CONNOR. Yes, sir.

Mr. YOUNGER. May I ask you what your definition of navigating is?

Mr. O'CONNOR. My definition of navigating is any time a boat will be in movement from one point to another.

Mr. YOUNGER. It would not make any difference whether it is a river or a bayou or what?

Mr. O'CONNOR. No, sir; not any.

Mr. YOUNGER. What is your definition of operating?

Mr. O'CONNOR. It would be the same thing.

Mr. YOUNGER. I beg to differ with you. Operating includes everything that is connected with the ship. I can operate a ship alongside of a dock. You could not navigate her alongside of a dock.

Mr. DOUGLAS. I think that he made a distinction between navigating and operating. He said if a boat ran ten hours and tied up to a dock for an hour, and then went on, she would be operating all the time.

Mr. O'CONNOR. That was my statement.

Mr. YOUNGER. I think that was a fiction. No operator would construe it that way.

Mr. STURGISS. Does the word "operate" include navigation and a great deal more—is it a broader term?

Mr. YOUNGER. Yes; it includes loading and anything. I surely don't think the Government wants to include loading ships.

Mr. O'CONNOR. I want to answer the question to the best of my ability and not to evade anything. For instance, if a boat was moving from one point to another for eleven hours, she came in and had to go to fuel up to a dock, she would be operating, the crew would be working, she would be putting her fuel on. If the engineer had to be doing repair work they would be operating. It is always considered as operating.

Mr. YOUNGER. A ship is operating if they remain perfectly stationary during regular hours; taking care of the machinery and making repairs is operating. But I do not think that has anything to do with navigation or the local inspectors.

The CHAIRMAN. Have you anything further?

Mr. O'CONNOR. I have not had much chance to say anything, I have been interrupted so much. Now, on the twelve-hour clause I want to say to you how that works in two ways. They work crews in New York, Buffalo, and Chicago over twelve hours. They work them twenty-five or thirty hours without rest. I have got data where our men have worked thirty hours, and they got into a collision. It has been taken up before the inspectors and their papers suspended. There is no man will say that those men, after being on

duty continually for thirty hours are competent and ought to be punished for getting into an accident.

Mr. HUMPHREY. Is there any provision in this bill that limits the number of hours the crew should work?

Mr. O'CONNOR. I should say yes. Twelve hours continuously.

Mr. HUMPHREY. We can not agree with you on the continuation.

Mr. O'CONNOR. That is what I want to get at. From the talk here the twelve-hour clause says: "But should the master or owner desiring to operate the vessel not more than twelve hours out of twenty-four hours in any one day, the local inspector shall indorse on the certificate of inspection the number and class or kind of licensed officers and crew that are necessary for such reduced period of navigation, subject to appeal as above prescribed." I believe, Mr. Chairman, that that covers or is intended to cover a boat with a single crew, not to operate over twelve hours out of the twenty-four.

Mr. GOULDEN. That is correct.

Mr. HUMPHREY. I think exactly the opposite is intended by that. As I read the provision, it provides that if the owner of the vessel wishes to operate it less than twelve hours then he can get special permission to reduce his crew, but there is nothing in this bill that I can find anywhere that limits the owner of the vessel from operating it twenty-four hours in the day if he wants to, with a single crew.

Mr. ALEXANDER. Oh, no, indeed; he has got to have a double crew.

Mr. O'CONNOR. That is the point I would like to get around. When I requested Mr. Ryan to put his bill in—the so-called Ryan bill—it was to try and cover twelve hours a day, subject to appeal to the Secretary of Commerce and Labor or inspector-general. There are cases where the crews operate those boats, or could be operated—what I mean is, where they operate eight or nine hours in a day, a single crew could operate that through the twenty-four, because they get plenty of rest. But there are other cases where it is continually eighteen to twenty hours a day, and that was our object in trying to get the twelve-hour clause in there.

Mr. GOULDEN. I have the Ryan bill before me and it provides that: "Local inspectors shall, when issuing certificates, specify therein or thereon the number, class, or kind of officers and crew required to navigate the vessel with safety at all times, but should the master or owner desire to operate the vessel not more than twelve hours out of twenty-four in any one day the local inspectors shall indorse on the certificate of inspection the number and class or kind of licensed officers and crew that are necessary for such reduced period of navigation." I read that for the information of Mr. O'Connor, so that he may proceed intelligently.

Mr. O'CONNOR. I understand that there is no difference in this. But it was our intention to get something that would cover the twelve-hour clause. No organization nor no man but the inspector should have the authority to say when a boat should operate with a single crew or double crew. Now, gentlemen, we support an inspection department service here at a cost of \$500,000 a year to the United States Government. The men working ought to have all the confidence in the world in that department, and the owners certainly should have the same confidence. If the inspectors are not competent to name those crews and to do their duties, it is up to somebody to remove them and put new inspectors in—make charges against

some man that he is not competent and have him removed and put a new man in. We are willing to abide by the Government officers appointed for that purpose, and we believe that they should have this authority vested in them so that they could do something to improve and make the navigation of boats safe, both to the passengers that ride in them and to the crews they carry on them. Also that there should be some limit to the number of hours that men may be required to take charge of boilers and navigate boats.

I can cite instances where passenger boats navigating Lake Michigan ran nineteen to twenty-three hours with a single crew, carrying women and children and passengers of all descriptions. They do that for three months in a year. I can cite you to the same thing in the St. Lawrence River and Niagara River and most likely a good many other rivers if I would look it up, but those cases have come under my personal observation in the last year, and somebody ought to have the say as to how long they may operate with a single crew or what is a sufficient crew to make it safe.

Mr. GOULDEN. That is the intention of this bill, to place it in the hands of the local inspectors with power.

■ We would like to hear from Mr. C. L. Warwick.

STATEMENT OF MR. C. L. WARWICK, NATIONAL SECRETARY OF THE AMERICAN ASSOCIATION OF MASTERS, MATES, AND PILOTS, OF BALTIMORE.

Mr. WARWICK. Mr. Chairman and gentlemen of the committee, I desire to say in substantiation of the practical part of what Mr. O'Connor has said with reference to it, I desire to say that I am also a practical man. I have been an officer on the coast for a number of years. It is the desire of this association to retain the word "operate" in the bill, and I give it for this reason: In the employ which I have lately been in I was the only officer aboard a certain ship, the steamship *Dorchester*, the only man aboard her who had a pilot's license for the district covering Boston. It became my duty from the orders of the captain to act as pilot from Gay Head to Boston, a thirteen hours' run. The ship arrived in Boston, we tied up at Battery wharf, north side, we had a perishable cargo, and after we had that discharged we hauled across to Constitution wharf to discharge merchandise. I had been out every minute of the time from Gay Head until we arrived in Boston; I was called to haul the ship across the slip, and we left at 3 o'clock that afternoon, and I went on watch and piloted that ship from Boston until she got clear of Gay Head. Gentlemen, that is why we want the word "operated" in.

Mr. YOUNGER. Was she moving under her own motive power?

Mr. WARWICK. She went by means of the capstan; the slip is perhaps 150 feet wide where we hauled across.

Mr. YOUNGER. Was that an emergency run or was that the common practice?

Mr. WARWICK. It is with ships ordered to Boston where the captain has not a license, but now it is the ruling of the company that they distribute the captains around so that they can have the indorsement of the different districts. I will cite an instance that is the practice. A ship leaves Boston on a voyage to Baltimore by way of Norfolk and Newport News. We stand watch and watch four hours on and four

hours off, with a dog watch from 4 to 6 and 6 to 8; we arrive at Cape Henry at 4 o'clock in the morning of the second day after leaving Boston. The first officer is off watch at 4 o'clock. It is approximately a two-hour run from there to Norfolk, Va. The first officer is called out to assist in the docking of the ship, and he keeps on deck until she is docked, and there is no limit as to how long it takes her, some captains dock in fifteen minutes and I have been an hour and a half. The first officer during that time is around the decks. He goes to breakfast at half past 7 in the morning, he relieves the second officer at 8 o'clock, and that ship is being operated all this time, gentlemen, that officer is still on duty and held responsible to the owners for any damage to cargo. The storing of the cargo is put up to him particularly, although they say the stevedores are responsible, but the company holds the officer, as he is to account for any damaged freight, and to account for any stolen freight. The ship arrives in Norfolk perhaps at 6 o'clock in the morning, the first officer is on deck until she is docked. He might have a half hour below. What I term below is off duty. That ship may be ready to leave her dock to go to Newport News at 6 o'clock in the afternoon. The first officer has been on deck from 8 to 12. He is supposed to go below from 12 to 4. He is called to assist that ship in getting ready and to proceed to Newport News, which is one hour's run. She is perhaps three-quarters of an hour docking. But the whole afternoon watch is consumed. At 6 o'clock she leaves for Baltimore and he has got to go on deck that night, and the next day he is looking after this ship—

Mr. HUMPHREY. What is there in this bill that would have any tendency to correct that?

Mr. WARWICK. I desire to oppose an amendment in the bill as Mr. Goulden has suggested, by taking out the word "operate" as it affects the licensed steamship officers. I am viewing it from the practical side.

Mr. HUMPHREY. You want the word "operate" left in the bill?

Mr. WARWICK. I do most emphatically, and "navigate" also. We desire to go on record as indorsing that bill as it stands, without any amendment.

The CHAIRMAN. What, if any, trouble arises, for instance, if the word "operate" is out of the bill and an appeal be made from the decision of the local inspector?

Mr. WARWICK. They will bring that question up that the ship is not being navigated, but she is lying alongside of the dock, and the officers are doing their duty.

The CHAIRMAN. Is it your idea to have a double force provided?

Mr. WARWICK. Not necessarily. It has long been the custom that all officers are required and all hands on deck to dock a vessel.

Mr. TILLEY. What is your construction of the twelve hours in this bill?

Mr. HUMPHREY. The committee is competent to decide that.

AMERICAN ASSOCIATION OF MASTERS, MATES, AND PILOTS,
New York, February 24, 1908.

HON. WILLIAM S. GREENE,
Chairman Committee on Merchant Marine and Fisheries,
House of Representatives, Washington, D. C.

SIR: Referring to several different bills that have been before your committee having for their object the giving of the United States local inspectors authority under the United States statutes to make out a certificate of inspection and place thereon

the number, kind, and class of crew to be carried on steam vessels, we wish to say that the association that we represent numbers nearly 10,000 licensed officers in active service, and we know full well the need of some one having authority over these matters, and we earnestly pray that the committee of which you are chairman will help us in these matters in every way possible.

We do not believe it necessary at this time to go into the matter as to why the local inspectors have not the authority that they should have, but will simply reiterate what we have said before, that the United States district attorney rendered an opinion or decision in the year 1903 to the effect that the board of supervising inspectors were the only ones who could designate the number, kind, and class of officers and crew to be carried on steam vessels. We do not believe that we could make it any plainer than by quoting from a petition that we are getting up for the pardon of Captain Van Schaick, late master of the ill-fated steamer *General Slocum*, as follows:

"The crew commanded by Captain Van Schaick was, therefore, placed aboard the *General Slocum* without any restriction whatever as to their number or fitness, and it has been proved, not only that they were insufficient in numbers, but that not one of the men in the deck department had any license whatever."

In the opinion of the United States circuit court of appeals the court says:

"If it be true, as the defendant testifies, that there were seven effective men in the crew and that it requires six men to lower a lifeboat properly, it will be seen at a glance how utterly inadequate were the means provided for meeting the emergency in case of fire."

This association's only object in this matter is that some one may have the legal right to name the number of licensed officers and crew that a steam vessel shall carry. This association firmly believes that it is just as necessary to have the number and class of the licensed officers and crew legally placed upon a certificate that is made out for a freight ship as it is for a passenger ship. We do not believe the argument offered by some of those from the Great Lakes is good logic by any means when they say that the law only contemplated the safety of the passengers. Even if that were true, the freight ship, by not being properly manned, might have a collision with the passenger ship, and it might be necessary, in case the passenger ship was seriously injured, for the freight ship to take her own crew to rescue those on the passenger ship. There are many reasons why the freight ship should be just as well equipped, as far as the officers and crew are concerned, as the passenger vessel. The men's lives are just as valuable; there is the value of the steamer and cargo, which should always be taken into serious consideration.

We earnestly hope that your committee, in its wisdom, may make it possible to have a law enacted whereby not alone the passenger but the freight ship will be properly equipped as to her officers and crew, and that the United States local inspectors shall be the legal ones to designate the same upon the certificate of inspection.

Thanking you in advance for the kind interest and attention that you and your committee are giving to this subject, we are,

Respectfully,
[SEAL.]

JOHN H. PRUETT,
IRVING G. GRACE,
LUTHER B. DOW.
Legislative Committee.

STATEMENT OF MR. J. J. WATERS, OF NEW YORK, REPRESENTING THE MARINE ENGINEERS.

Mr. WATERS. Mr. Chairman and gentlemen of the committee, I have attended pretty nearly every meeting of this committee, and until this minute I have not found any reason to object to House bill No. 16987, but on behalf of the marine engineers' organization I desire at this time to offer an amendment to the bill of three words in line 11 on the first page. After the words "navigation and operation" insert the words "at all times." That was the purport of the bill as originally introduced, and I believe it has been omitted in this bill without any intent. As Representative Humphrey has said, the bill as it reads now does not cover any specified time. I think that would make the bill something worth while after you get it passed. As it is now there is nothing in there that prevents a boat being operated twenty-five hours a day if they can get it in.

The CHAIRMAN. We will take your suggestion.

Mr. COX. Otherwise you approve of the bill?

Mr. WATERS. Decidedly so, and as our Supervising Inspector-General said, I personally see no objection to the word "operate" being stricken out.

Mr. COX. Do you see any objection to leaving it in?

Mr. WATERS. Not a bit. As he said, it does not make any material difference one way or the other.

STATEMENT OF F. S. MASTEN.

Mr. MASTEN. I speak for the Great Lakes Towing Company. I would like to ask Mr. O'Connor if he will kindly file with the committee the specific instances in which men have worked for twenty or twenty-three hours. And I want to file a statement which our people have prepared from the reports of their masters or pilots which shows the average number of hours in a day of twenty-four hours which their tugs navigate at all of the different lake ports. I also want to file a statement compiled from the same source showing the number of hours that they lie at the dock twenty-four hours a day without turning a wheel, and I would like to have the statement referred to by Mr. O'Connor filed, because I think we can show that they are emergency or special cases or that there is a mistake in the information. I do not speak for the Lake Carriers' Association, because my senior partner is general counsel for that and, with it I have nothing to do. I speak for the Great Lakes Towing Company, which operates something in the neighborhood of 100 tugs at all the lake ports and employs many of the men in Mr. O'Connor's association under the agreement filed.

We have three objections to this bill. In the first place, we think that no legislation is necessary. Second, if there must be or is to be legislation it should be confined to the passenger-carrying craft, and freight boats should be eliminated. That has been discussed, I believe, quite fully before you, and I will not take your time. The third is this: If you are going to repose this authority in the board of local inspectors, leave it there. Do not make the mistake of trying to make an exception as to the number of hours of service, because you are giving a power which applies, as you have heard this morning, to a great variety of conflicting circumstances that can only be dealt with intelligently and fairly by the men who are on the ground. If it appears as a hardship on the crew, the authority would be reposed in the inspectors to correct it. If you say twelve hours, their hands are tied; they can not correct it. Once established by law, it is not easy to get it changed. If this committee and Congress have enough faith in the boards of local inspectors to repose in them the authority to make the selection and designate the number in the first instance, then leave with that board discretion, so that with a change of conditions, a change of trade, a change of character of the ship, they may change the complement of officers and crew to fit the changed conditions. In one instance you would have tied their hands. If they are competent to do it in the first instance they are competent to make the change. Therefore we have these suggestions on this bill as now drawn. First, take out the word "operate."

Mr. ALEXANDER. Why do you want that out?

Mr. MASTER. I will tell you frankly. I will file with the committee a copy of the existing contract between the tugmen and my client, which shows how they operate now, if I may. You will see by examining the statement that very many days in the course of a season some of our tugboats (engaged exclusively in towing vessels in and about harbors) will lie at the dock twenty-four hours without turning a wheel. If Mr. O'Connor's idea is right, as expressed this morning, we must double crew that boat, if twelve hours in time is to be the only limitation. I go on watch at 6 o'clock—very many of our tugs are equipped with sleeping berths and the men are boarded on the tug, and if not we pay for the board outside—I turn in and sleep until the next morning at 6 o'clock. I have not performed any active service as a licensed officer but I draw my pay; I have not earned it. They are subject to call, but are like a fireman. They do not go out on long runs. When they do, we double crew their boats. They do that now and they are willing to continue to do it. They will do it whether this bill passes or not.

But if you pass this proposed bill and tie the hands of the inspectors, you simply put it in the power of the crew to dictate. Now, if you leave it to the inspectors, they have just exactly the same chance as the owners. If I am dissatisfied with the complement of crew required on one of my boats, I can take my appeal, and I think if I have a good reason for it I can get it changed. If, on the other hand, their reasons are better than mine, I should not get it. But if you start to specialize, you ought to do the whole thing; neither should the word "operate" go in. It was put in there for that purpose—to limit time of service when acting or not—and nothing else. It does not mean the same thing as navigate. If you repose in the local inspector the authority to fix the complement and then provide that they may change by indorsement by any local inspectors on a change of condition and character of service, that would be reported back under regulation of the Department, back to the inspectors making the original inspection, so that the permanent record is there. Then if my boat is employed in carrying both freight and passengers—I can state an instance on the Great Lakes—take the Anchor Line. Through the summer season on some of their boats they carry a large number of passengers and during the spring and fall some of their passenger accommodations or quarters are laid up. This bill as now drawn will require them to carry throughout the life of the certificate of inspection (one year) the full complement placed in it at the time the inspection is made. This is not what you seek to accomplish. She should have a larger crew when she is carrying two or three hundred passengers than when she is carrying only freight. But unless you give discretionary power to the local board of inspectors a change of condition such as I have called your attention to would tie the Anchor Line up to the highest designation. If you feel that the good of the service requires that this authority be reposed in the local board of inspectors, then I would say give it to them, and let them exercise that judgment, and then it will work the least hardship.

Therefore, we say that twelve hours should go out. There should be no provision except that that boat shall not navigate unless she has the complement that the inspection service says is sufficient and

necessary. If they are competent to do that in the first instance, surely they are competent to do it as changes of conditions arise. If you make it a statute, the only appeal we have is to Congress, and that is not a simple job.

I do not care to take your time on the question as to whether it should be limited to passenger boats, but I will say that in my opinion it should. Where a vessel is carrying passengers, and in that sense becomes a common carrier, while the lives of the passengers are no dearer or more valuable than the lives of the crew, they do stand on a different basis. I am only speaking for the tugboats, but it has its bearing upon the others. If you see fit to limit it to passenger carrying craft, that takes us out, so we will go ahead just as we are now. The local inspectors at some points have been assuming to put in the complement of crew necessary, but there has always been this relief from that, and that is one reason why so far as our client is concerned, I have not objected to it. If you get into a place where you can not comply you can not go ahead and navigate anyway at your own risk; it is easier to comply than to object, but if you make that law we have got to get the men, whether engaged in the actual navigation or not.

Mr. COX. In your idea of the operation of a vessel, suppose it is tied up in some port twenty-four hours, who is in charge of it?

Mr. MASTER. The officer.

Mr. COX. He is made absolutely responsible?

Mr. MASTER. No; he is responsible, but not absolutely responsible.

Mr. COX. He is the responsible man when on the vessel?

Mr. MASTER. Yes, except at those ports where we have local managers, but the master is still master of the vessel.

Mr. COX. Do you think, taking your illustration as you have put it, where a vessel is tied up twenty-four hours, that one crew of officers is competent to care for that vessel during the time of the entire twenty-four hours?

Mr. MASTER. Yes; they have been doing it for a great many years. Mr. O'Connor's association does it now, and we are getting along very nicely under our agreement.

Mr. O'CONNOR. I did not come here, Mr. Chairman, with any particular data against the Great Lakes Towing Company, but in looking over this statement I see that they make a point that they have a watchman in most ports. Eleven out of sixteen have no watchmen. The crew has to stand watch and watch, eleven out of sixteen, and in the other cases they do not need any watchman, because they are going pretty nearly all the time.

THE GREAT LAKES TOWING COMPANY,
Cleveland, Ohio, February 24, 1908.

Capt. THOMAS JOHNSON,
Assistant to President, City.

DEAR SIR: Replying to your inquiry as to how many days in 1907 some of our tugs while fully manned and ready for business lay at the dock the full twenty-four hours on account of no business being offered, I give you the following from our records:

Tug *Halladay*, operated at Marquette:

August.—No service rendered on the 2d, 6th, 7th, 10th, 11th, 17th, 18th, and 22d; total of 8 days out of 31.

September.—No service rendered 1st, 2d, 3d, 4th, 5th, 6th, 10th, 12th, 15th, 19th, 20th, 21st, 23d, 24th, 25th, and 27th; total of 16 days out of 30.

October.—No service rendered on the 6th, 10th, 11th, 16th, 18th, 19th, 21st, 25th, 27th, 28th, 29th, 30th; total of 12 days out of 31.

November.—No service rendered on the 2d, 3d, 6th, 16th, 18th, 20th, 21st, 23d, 24th, 25th, 26th, 27th, 28th; total of 13 days out of 30.

Tug *Tomlinson*, operated at Escanaba:

May.—No service rendered on the 1st, 3d, 7th, 9th, 10th, 12th, 17th, 21st, 24th, 25th, 31st; total 11 days out of 31 days.

June.—No service rendered on the 7th, 9th, 10th, 11th, 16th, 17th, 24th, 26th, 29th; total of 9 days out of 30 days.

July.—No service rendered on the 1st, 6th, 7th, 9th, 11th, 12th, 16th, 17th, 24th, 26th, 28th, 30th, 31st; total of 13 out of 31 days.

August.—No service rendered on the 2d, 14th, 16th, 17th, 18th; total of 5 days out of 31 days.

September.—No service rendered on the 6th, 10th, 12th, 13th, 18th, 20th, 29th; total of 7 days out of 30 days.

October.—No service rendered on the 2d, 8th, 9th, 11th, 15th, 17th, 21st, 22d, 25th, 28th, 29th; total of 11 days out of 31.

November.—No service rendered on the 3d, 11th, 12th, 20th, 22d, 24th, 26th, 28th, 29th, and 30th; total of 10 days out of 30 days.

Yours, truly,

M. H. WARDWELL,
Secretary.

THE GREAT LAKES TOWING COMPANY,
Cleveland, Ohio, January 31, 1908.

Capt. THOMAS JOHNSON,
Assistant to President, The Great Lakes Towing Company, City.

DEAR SIR: Replying to your inquiry as to the average number of hours per day our tugs are kept at work at the different ports where we operate, I give you the following, which has been taken from the logs made by the masters and turned in daily.

In making up these logs a tug is considered as running from the time it leaves its home dock to make a tow until the tow has been finished and the tug is back to its home dock. Tows that require less than a half hour to make are turned in as taking thirty minutes. In putting down the time it is the general custom to call the fraction of quarter or half hours whole quarters or whole halves, so as a matter of fact the actual running time of the tugs will be somewhat less than the average noted in the following list:

	Time in commis- sion.	Average running time per day.		Time in commis- sion.	Average running time per day.
	<i>Days.</i>	<i>Hours.</i>		<i>Days.</i>	<i>Hours.</i>
Ashland.....	183	3.02	Escanaba.....	151	2.85
Ashtabula.....	569	6.53	Fairport.....	184	3.28
Buffalo.....	1,502	7.78	Huron.....	310	6.15
Cleveland.....	1,763	7.23	Lorain.....	366	6.33
Conneaut.....	479	4.11	Marquette.....	138	1.74
Chicago.....	702	7.98	Soo.....	994	6.05
Duluth.....	1,009	7.16	South Chicago.....	369	4.9
Erie.....	182	3.29	Toledo.....	537	6.17

At all of the large ports and most of the small ones we have dispatchers and watchmen on duty at all times, and when the tugs are not running the men are not required to be on watch.

These figures have been made up from the logs of the tugs during the most active part of the season, from May to October and December.

The averages for prior years have been substantially the same as for this season.

Yours, truly,

M. H. WARDWELL, *Secretary.*

Agreements between the Great Lakes Towing Company and Licensed Tugmen's Protective Association of the International Longshoremen Marine and Transportworkers' Association and Tug Firemen and Linemen's Organization of the International Longshoremen, Marine and Transportworkers' Association, May 1, 1906, to May 1, 1908.

LICENSED TUGMEN'S PROTECTIVE ASSOCIATION.

This agreement, made and entered into at Cleveland, Ohio, this 19th day of May 1906, by and between the Licensed Tugmen's Protective Association and the Tug Firemen and Linemen's Association, both of the International Longshoremen, Marine and Transport Workers' Association, parties of the first part, and The Great Lakes Towing Company, owning and operating tugs, party of the second part, witnesseth:

Under the following terms and conditions the parties of the first part agree to furnish with reasonable promptness to party of the second part, on application, such licensed men and firemen and linemen as they may require to perform the work on all tugs owned, operated, and controlled by the party of the second part; and second party further agrees to employ only members of first parties for such service except as hereinafter provided.

REFERRING TO LICENSED MEN ONLY.

1. It is understood and agreed that all licensed men employed under this agreement will, while on duty, be under the direction and control of second party, its managers or agents, and shall carry out its orders.

2. All licensed men furnished under this agreement by the parties of the first part must be competent, and must be accepted by the second party, its managers or agents, unless for good and sufficient reasons, and the second party may appoint and employ any licensed member in good standing of the parties of the first part under the terms provided in this contract.

3. It shall be the duty of the masters and engineers to secure competent firemen and linemen and require of them a faithful performance of their respective duties. In the event that the men usually employed as firemen and linemen are not available or refuse to serve, first parties pledge themselves to endeavor to secure others to serve and to use the influence of its organization and do everything in its power to keep the tugs of second party in continuous operation.

When a single crew is employed the master of tug to appoint a lineman and the engineer a fireman. When a double crew is employed the engineer to appoint a second engineer and one fireman, and the master all of the others.

4. It is understood and agreed that when a single crew has been on duty over ten hours after their regular night off, that they can not go over 25 miles and return without a double crew; and not over 35 miles and return at any time except when transferring tug from port to port.

REFERRING TO FIREMEN AND LINEMEN ONLY.

5. It is understood and agreed that all firemen and linemen employed under this agreement will, while on duty, be under the direction and control of their superior officer on board tugs, and they shall at all times faithfully carry out their orders.

6. All firemen and linemen employed under this agreement must give their superior officers twenty-four hours' notice before quitting the tug on which they are employed, and if they should quit without giving such notice one day's pay shall be deducted from their wages.

7. In case any fireman or lineman quits and leaves a tug short handed, the remaining fireman or lineman shall do the work to the best of his ability to prevent stopping the tug's working until a fireman or lineman is secured.

8. It is understood and agreed that when a single crew has been on duty over ten hours after their regular night off that they can not go over 25 miles and return without an additional fireman, and not over 35 miles and return at any time except when transferring tug from port to port.

GENERAL CONDITIONS FOR ALL MEN.

9. All men may be changed from one tug to another when the tug on which they are usually employed is disabled or out of commission.

10. It is further understood and agreed that men may be laid off whenever their services are not required on account of the tug on which they are employed being taken out of commission, but under no consideration will any member of the parties of the first part be discriminated against.

11. When parties of the first part fail to furnish with reasonable promptness competent and satisfactory men as provided for in article 2, second party may employ other men not members of the association of parties of the first part, such men not to be hired for more than one round trip at a time or more than five continuous days on harbor work.

12. First parties further agree that no contract under which less wages are to be paid or more favorable terms given shall be entered into between it and any other company, association, or owner operating vessel towing tugs. Nor will they permit their members to work for others engaged in the same business as second party at any less wages or more favorable conditions. The parties of the first part pledge themselves that their members will carefully respect and carry out this provision, except in ports where second party is not engaged in the tug business.

13. Members of parties of the first part to be employed to fit out and lay up tugs except when tugs are fitted out or laid up at ports where company has shops. Shop work and repairs to machinery not to be considered fitting out.

14. Any member of the parties of the first part who voluntarily violates this contract, causing the party of the second part financial loss, shall be fined by his organization and not offered for service for thirty days; and it is further understood that all organizations that are a party to this agreement will cooperate and assist in the enforcement of this article.

15. In the event of any controversy arising between the local organization and The Great Lakes Towing Company, or in the event of the men having a grievance, they shall continue to work, and any and all such grievances to be settled by the local manager and the licensed men if possible; if they can not be settled by them they will be submitted to the president of The Great Lakes Towing Company and the grand president of the Licensed Tugmen's Protective Association, and if they can not agree they two to select a third man, said three to constitute a board of arbitration. The finding of the majority of said board shall be binding and final. All matters in dispute must be submitted in writing, but in no case will the men discontinue work. Arbitration board to meet within five days after matter in dispute has been submitted to them. Any expense incurred account of third arbitrator or stenographer work shall be born by the party whom decision is rendered against.

16. All wages to be paid twice a month and thirty days to constitute a month.

17. It is understood and agreed that board shall be furnished by second party to all men employed under this agreement during the season of navigation only, men to be allowed 75 cents per day for board, and not over one hour's time for each meal, except when fed aboard tug. In case such an arrangement is made and by reason of tug on which such men are employed goes away from its home port for a period of more than twenty-four hours, then second party shall provide board for such men in lieu of the 75 cents per day.

18. Full day shall be allowed men whose services are dispensed with during the day, and nothing allowed for fraction of day when men quit during the day. Days for men employed regularly to be figured from 6 p. m. to 6 p. m., but where extra men are employed a day to consist of twenty-four hours, figuring from the hour they go aboard, with no pay less than for one day's service.

19. The meaning of "season of navigation," as herein referred to, is from April 1 to December 31, inclusive. Board not to be furnished by second party between April 1 and 15, except where men are required to work more than ten hours per day. The meaning of "winter navigation" is the period of time between January 1 and March 31, inclusive.

20. All men employed under this agreement at ports where there are three or more tugs carrying single crews except at the ports of Chicago, Cleveland, Buffalo, Duluth, Ashtabula, shall have every third night and every third Sunday off duty at full pay, nights off to consist of thirteen consecutive hours, to begin at 6 p. m.; Sundays off to consist of twenty-four hours, beginning Sunday at 7 a. m.

At ports where there are less than three tugs men shall have ten nights of thirteen consecutive hours off each thirty days, and twenty-four consecutive hours each third Sunday at such time as will least interfere with the service required of the tug. The time of going off may be fixed by the second party, its managers, or agents.

At the ports of Chicago, Cleveland, Buffalo, Duluth, and Ashtabula all men employed under this agreement shall have every other night of thirteen and ten hours, respectively, beginning not earlier than 4 p. m. nor later than 6 p. m. when thirteen hours off, and not later than 9 p. m. when ten hours off. And every other Sunday of twenty-four hours and twenty hours, respectively, 7 a. m. Sunday to 7 a. m. Monday when twenty-four hours, and 11 a. m. Sunday to 7 a. m. Monday when twenty hours off; but not more than 50 per cent of tugs at any one port off at any one time.

The local manager and men employed at any port may vary or change the time off by mutual consent, provided number of hours off in total shall not be less than provided in this contract.

21. It is understood and agreed that permanent double crews shall have every fifth night, to consist of thirteen hours or the equivalent off duty at full pay. Time off to begin at such time as will least interfere with the services required of the tug, the time to be fixed by the local manager. And it is further agreed that the time allowed for boiler cleaning for tugs carrying permanent double crews shall consist of thirty-six hours once in each thirty days. One of these thirteen hours off shall be included in the thirty-six hours. When tug leaves home port to make a trip on her night off the crew shall be paid an extra day's pay in lieu of time off, and on return to home port will take regular turn of nights off.

22. In case second party desires to send a regular single-crew tug away from her home port on a night or Sunday that the crew are entitled to time off, they may do so by allowing the regular crew an extra day's pay in lieu of their night or Sunday off; and on return to home port crew will take regular turn of nights off.

23. It is understood and agreed that second party reserves to itself the right to say when tugs shall go into commission, be taken out of commission, be put in for repairs or boiler cleaning, to transfer its tugs from port to port, and otherwise directing and controlling the operation of its tugs. And it is further understood and agreed that each boiler will be cleaned at least as often as once in every thirty days while in commission; boiler-cleaning time for single-crew tugs to consist of twenty-five hours, beginning at 5 p. m.

24. It is distinctly understood and agreed that there will be no beer or other intoxicating liquors brought aboard the tugs or on the property of second party.

25. (Supplementary understanding to article 10.) In the event of a regular crew being laid up at any port after being in commission and the local manager and all the men interested by mutual consent agree to alternate, so that those who have been forced into idleness on account of the tug on which they were employed being laid up, they may do so, but in no case can this arrangement be put into effect except by unanimous consent, nor will this supplementary understanding in any way interfere with the letter or spirit of the contract now in existence between The Great Lakes Towing Company and the parties of the first part.

26. This agreement to take effect May 1, 1906, and remain in full force until May 1, 1908.

27. It is understood and agreed that a date not later than March 1, 1908, is agreed upon between the parties hereto to meet at some place, to be mutually agreed upon, to arrange a wage scale and other conditions for the employment of members of the parties of the first part for the manning of all of second party's tugs, to take effect from the date of expiration of this agreement.

WAGE SCALE FOR LICENSED MEN APRIL 1, TO JANUARY 1.

28. The wages to be paid licensed men under this agreement from April 1 to January 1 during each of the years 1906 and 1907 shall be at the following rate per month for such time as the men are employed:

CHICAGO.

Captains.....	\$161. 29
Mates, permanent.....	86. 29
First engineers.....	116. 29
Second engineers, permanent.....	86. 29

SOUTH CHICAGO.

Captains.....	\$141. 29
Mates, permanent.....	86. 29
First engineers.....	116. 29
Second engineers, permanent.....	86. 29

DULUTH, ASHLAND AND MARQUETTE.

Captains.....	\$136. 29
Mates, permanent.....	86. 29
First engineers.....	116. 29
Second engineers, permanent.....	86. 29

COMPLEMENT OF CREWS OF VESSELS.

ALL OTHER PORTS.

Captains.....	\$131. 29
Mates, permanent.....	86. 29
First engineers.....	116. 29
Second engineers, permanent.....	86. 29

Extra captains and engineers are to be paid at the same rate of wages as regular captains and engineers for the first fifteen days or less; if they should quit before expiration of a trip they shall receive pay at rate of permanent mates and second engineers.

WAGE SCALE FOR LICENSED MEN JANUARY 1 TO APRIL 1.

29. Winter wages from January 1 until April 1 in each of the years 1907 and 1908, inclusive, to be \$3 per day for captains and engineers for ten hours or less. Overtime to be paid at the rate of 50 cents per hour, but not to exceed summer wages.

WAGE SCALE FOR FIREMEN AND LINEMEN.

30. The wages to be paid firemen and linemen under this agreement from April 1 to January 1 during each of the years 1906 and 1907 shall be at the following rate per month for such time as the men are employed:

Ashtabula, Ohio; Buffalo, N. Y.; Cleveland, Ohio; Chicago, Ill.; Duluth, Minn.; South Chicago, Ill.; each \$60. All other ports, \$55.

Winter wages for all ports from January 1 to April 1 in each of the years 1907 and 1908, inclusive, to be \$2 per day for ten hours or less, but if they work over ten hours per day board shall be allowed.

In witness whereof the parties hereto, by their respective representatives duly authorized, have affixed their names the 19th day of May, 1906.

Licensed Tugmen's Protective Association of the International Longshoremen, Marine and Transportworkers' Association:

T. V. O'CONNOR.
E. F. KEMMET.
H. H. VROMAN.
CHAS. A. MCCARLE, No. 2.
WM. J. WHELAN, No. 4.
CHAS. GREEN, No. 1.
M. H. JOYCE.
JOS. A. SWEENEY.

Tug Firemen and Linemen's Organization of the International Longshoremen, Marine and Transportworkers' Association:

JNO. BOURKE.
O. ANDERSON.
THOS. LALLY.
DANL. J. CARTER.
ARCHIE PURCUPLE.
O. E. BENEDICT.
FRANK WINTERHALTER.
ARTHUR RILEY.

The Great Lakes Towing Company:

EDWARD SMITH, *President*.
M. H. WARDWELL, *Secretary*.

STATEMENT OF MR. J. H. PRUITT, OF NEW YORK.

Mr. PRUITT. Mr. Chairman and gentlemen, as I said at your last hearing, the association which I represent, the masters, mates, and pilots, I believe are entirely in favor of every word in this bill. There have been many suggestions as to the proposed amendment here, but I hope that you will not make any amendment to this bill whatever. At first the word "operation" did not appeal to me in any particular sense, but now that so much discussion has been had upon the matter, I believe it is like the bill, the longer we discuss it the more binding it appears to be. Like Captain Warwick, I went through the same service he has spoken of, and it does not make any difference whether

a man is in the pilot house looking for the safe navigation of the vessel or whether he is on deck looking out for the storage of the cargo, it is manual labor, and a man can not work twenty-four hours out of twenty-four hours and be responsible and active in his work. Therefore I believe the word "operation" is safe to leave in there, and the discretion of the local inspectors upon all matters contained in the bill would be, I believe, eminently fair.

I have no objection to anything going to the local inspectors. They have never arbitrarily, in my opinion, nor in my service or my practice with them, shown in any way, shape or manner that they wanted to make anything different from what the owner or master thought was practicable for the vessel. They have always asked, "How many crew do you need, how many do you carry?" and from the statement of the master or owner or agent they have put it in the inspection certificate, and, although we know it has been unlawful, we have been willing to see it on the certificate. I think the local inspectors in all cases appear to be very easy to get along with in this matter.

There is one thing I want to impress upon the committee, that this bill should apply to all steam vessels, for the reason that if you eliminate any class of steam vessel there is a liability, not upon the part of a majority of the owners, or on the part of 90 per cent of the owners, but there will be an owner who desires to run his vessel shorthanded, and the vessel that is shorthanded carries an overworked crew, and an overworked crew is not responsible and are a menace to navigation.

Mr. Dow. I have handled many, many collision cases, and other cases, and I can say I can find plenty of cases where boats have been navigated for eighteen hours, and some more, in the harbor of New York principally and some on the Pacific coast, and it has been absolutely proven to our satisfaction that a man is not capable, mentally, physically, or in any other way of doing such navigation who has been on duty anywhere near that long. They are a menace to their own boats, they are a menace to passenger boats in the vicinity. And I would coincide with everything said on that subject.

The CHAIRMAN. You mean with a single crew?

Mr. Dow. With a single crew, absolutely working right straight along eighteen hours of twenty-four hours. And they might do that three or four times in a week.

The CHAIRMAN. But the case would be an exceptional case of running long hours?

Mr. Dow. No, sir.

Mr. TILLEY. Since the amendment has been touched upon by counsel for the Great Lakes Towing Company, I still insist upon the amendment, but if that does not prevail I would ask that the number of hours that a vessel shall be navigated or operated, whatever you shall call it, be decided by the local inspectors, who know all the exigencies that may occur.

If there has any impression been gained in the minds of the committee that I am opposed to allowing the local inspectors this power, I want to do away with it. The local inspectors at Pittsburg are all practical Ohio river boatmen. We are willing to turn the whole business over to them, and let them tell us the crew necessary and everything else. But if you say by act of Congress that we can not operate longer than twelve hours with a single crew when emergency may arise what are we going to do?

Mr. GOULDEN. I move that the hearing be now closed, and that we take the matter up in executive session two weeks from to-day. Let me say to the gentlemen that I think that it would be well to have these proceedings printed at once and distributed among the members and others interested in this matter.

I desire to go on record as saying that my choice of bills to accomplish the best results for the safety of passengers is H. R. bill 14941. After several hearings held, and in consultation with the Department officials and the many friends of the object sought to be obtained, I introduced H. R. bill 16987. While this is not equal in many respects to the one previously discussed, it seems to meet the views of the members of the committee and is most likely to pass Congress; hence I have yielded to my colleagues in this matter, believing that it will accomplish some good results. It is at least worthy of trial; hence I am ready to support H. R. 16987.

The CHAIRMAN. Mr. Coulby expected to be here at noon to-day. I understand that he wants to be heard on the question of including or excluding freight vessels. I think we have been very patient, and if he wants to submit anything in writing and will submit it in three days I will see that it gets in the printed hearings, but I think we can not extend the hearings any further. We have been more than liberal in allowing time, and it would be no more than fair than that we should close the hearing to-day. This matter will be adjourned until March 12, when we will meet in executive session to consider this bill.

(Thereupon at 12.20 o'clock p. m. the committee adjourned.)

To the honorable chairman and members of the Committee on Merchant Marine and Fisheries.

GENTLEMEN: Leave having been granted to submit statement on the question of the proposed amendment to section 4463, now pending in your committee, I desire to state briefly my objections.

I speak for the Pittsburg Steamship Company, which operates on the Great Lakes more than 100 vessels of the largest size and of the value of about \$25,000,000, all operated without insurance. I believe if you will make inquiry of the supervising inspector-general, or the supervising inspectors having jurisdiction in the districts bordering upon the Great Lakes, the fact will appear that we have not and we will not oppose any legislation which reasonably makes for the good of the service, the safety of life and property. I may safely say, and I believe they would confirm the statement, that we not only observe the requirements of the inspection service, but we add thereto more stringent regulations of our own. What I have to say, therefore, I ask you to accept as having but one purpose—the good of the service and the safety of life and property.

I have no personal knowledge of conditions on the coast or Gulf, and speak solely as to the Great Lakes. It has been suggested that all steam craft should be treated the same. The principle may be right, but is without application. The Lake trade differs in many things from trade on other waters, and when we speak of the Great Lakes, it is not to the end that we ask any privileges, but simply that the conditions are different and may require different treatment, the purpose to be accomplished being the same.

My first suggestion is that freight vessels, or any vessels other than those carrying passengers for hire, ought not to be included in the bill. The basis of the inspection service is safety of life and property engaged in water-borne interstate commerce, and to this end the construction, maintenance, and navigation of steam vessels are directed and regulated. It is now proposed to add to this already sufficiently regulated business a legal designation of crews, as well as licensed officers. So far as passenger craft are concerned, there are strong but by no means conclusive reasons why this should be, but as to freight vessels there is no sound reason for extending regulation beyond what it now has.

It has been suggested, I am informed, that such action is desirable in the interest of the safety of other craft, and especially passenger-carrying craft, navigating the same waters. This reason is rather fanciful than real, and if it be the basis of the endeavor to include freight-carrying craft, then manifestly the amendment should be limited in its application to the persons having to do with the navigation of the ships. The word "crew" includes all in the employ of the ship, whether they be deck hands, firemen, porters, or whatnot. If the proposed amendment is enacted, we have a statutory direction that the local inspectors shall designate the number of deck hands, firemen, cooks, porters, etc., which shall be carried, as they all come within the language employed. It is true the language employed is "necessary for her safe navigation," but by use of the words "licensed officers and crew" it includes these supernumeraries (so far as safe navigation is concerned).

I take it that it has not yet come to be the policy of the Government to restrict or limit the individual right of private contract in employments not harmful or deleterious to public health or morals; but, if you gentlemen of the committee knew the difficulties which the managers and officers of merchant vessels encounter daily in dealing with such of the crew as are not engaged in or concerned with the navigation of a ship, and whose presence do not add to safe navigation, I do not believe it would be possible to have seriously entertained a proposition which would fix the number of deck hands or firemen or porters, or of any class of men other than those in charge of the machinery, responsible for its keep and operation, and those in charge of the navigation. To legally impose on freight vessels any fixed number of crew beyond licensed officers is simply to put owners and licensed officers in the hands of men over which the inspection service has no control whatever. While this is the abuse, it is so certain to follow that nothing but the most cogent reasons should subject owner to the risk.

That is to say, when the policy was adopted of requiring licensed officers to be in charge of the navigation of a steamer and of her engine department, Congress was exceedingly careful to keep control, almost absolute control, of the men holding this special privilege, so that it might not be abused. They must perform their duty and perform it according to law, or the privilege is withdrawn. They may not combine in any manner affecting service under their licenses; they may not, under the opinion of the Attorney-General, refuse to answer questions relating to the service; in matters affecting the service, they may not even refuse to answer questions tending to incriminate them; and such refusal is a sufficient ground for the revocation

of the special privilege which they hold at the hands of the Government.

The Government exercises no such control over firemen or deck hands or anyone except licensed officers, and there is no remedy by which an owner or the licensed officers of a ship can secure proper performance of duty from these men. The instances of almost unbelievable demands and exactions of these men, who are accountable to no one except their union, are within the knowledge of everyone having anything to do with the service. To make a binding designation of the number of such men which must be on board before the business of the ship may be carried on would simply render the service intolerable, and would not accomplish any good.

With no intent to oppose any regulation by statute or of the inspection service which will tend to the safety of property; that will aid in the least to protect life of the traveling public; that will conserve the general purpose to regulating commerce, I desire to be recorded as opposing any amendment which will fix the number of crew to be carried by any steamer other than those carrying passengers for hire. Second, if there can be any reason sufficiently strong to justify hampering freight vessels by designating their crews beyond the number of licensed officers which they shall carry, it must be found in safety of navigation. On that it would necessarily follow that the designation should be limited to those persons having to do with the navigation—that is, wheelmen and watchmen or lookouts. On such vessels it should not be any concern of the Government whether her fires were fed automatically or by one or twenty firemen, or whether she carried one or twenty deck hands. If any amendment is to be made, and includes freight vessels and designate more than her licensed officers, it should be limited as to crew, to wheelmen, and watchmen.

That my objection to going beyond this is real is evidenced by the remark made at your hearings Thursday by one of the advocates of the bill. I am informed, and your record will doubtless show, that the mentioning in the proposed bill of service less than twelve hours and of the word "operate" was desired as limiting the time for which a single crew could serve, and that that time should be measured in hours, whether there was any actual service or not. The language employed would not accomplish that purpose, but the intent is present and the purpose evident. I make the following suggestions:

First. That section 4463 is already sufficient to protect passenger carrying craft and no amendment is necessary.

Second. If that section is not sufficiently specific, and it is desirable to have it reenacted, that it be limited as follows: "Any vessel of the United States carrying passengers for hire."

Third. If other than vessels carrying passengers for hire are to be included, then the designation of crew should be limited to the licensed officers, wheelmen, and watchmen or lookouts.

Fourth. That, in any event, the statute, which is as difficult of change as it is of enactment, should not specify any time, but the whole matter be left to the local inspectors who are on the ground, with authority to change the requirement on change of condition or service. My attention has been called to a bill introduced by Senator Frye, which contains apt language in this regard.

I do not overlook the fact that some inspectors have assumed to designate the number of men to be carried, but to give this the binding character of law opens the door to so great abuse at the hands of men in no way subject to the inspection service that it should not be done except under great necessity. There is certainly no necessity in this lake trade.

If a change is determined upon to include freight vessels, I suggest the following: "She shall have in her service and on board such complement of licensed officers as in the judgment of the local inspectors, etc."

Or, at most, "such complement of licensed officers, wheelmen, and watchmen as shall in the judgement, etc."

If conditions on the coast or in the foreign trade require different treatment, the method of differentiating the services is easy and already fully recognized in the existing laws.

Respectfully submitted.

H. COULBY.

FEBRUARY 28, 1908.

MARINE INTERESTS ASSOCIATION,
MARQUETTE BUILDING,
Chicago, February 4, 1908.

THE CHAIRMAN AND COMMITTEE,
MERCHANT MARINE AND FISHERIES,
Washington, D. C.

GENTLEMEN: Since appearing before you when the Goulden bill was considered, January 23, I have conferred with several members of this association as well as other practical boatmen, and in every instance the views expressed before you are confirmed.

It is of no importance whether this authority is asked by the Bureau because of the opinion of the Solicitor or because of any court decision, the question of necessity, for such a radical measure is in no way affected, although it may be urged that a vessel is not being navigated or operated when moved from or to a berth that would be hopeless as a construction to be placed upon the language of the bill by a local inspector whose first consideration is to secure the laudation of his superior officers by the most severe enforcement of the letter of the requirement. What the inspection laws and regulations need, in the judgment of the honest, practical people who are subject to them, is a thorough revision with a view of securing proper requirements and elimination of many senseless ones, and not further additions to existing requirements.

Yours, very truly,

MARINE INTERESTS ASSOCIATION.
By JNO. M. SWEENEY, *Manager.*

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